

DEPARTMENT OF FISH AND GAME

**WILDLIFE CONSERVATION BOARD**

500 K STREET, SUITE 806  
 SACRAMENTO, CA 95814  
 (916) 445-8448  
 FAX (916) 323-0280



State of California  
 The Resources Agency  
 Department of Fish and Game  
**WILDLIFE CONSERVATION BOARD**

Minutes, November 10, 1994

ITEM NO.PAGE NO.

1.	Roll Call .....	1
 * <b>CONSENT CALENDAR (Items #2-13)</b>		
* 2.	Approval of Minutes .....	4
* 3.	Funding Status .....	5
* 4.	Recovery of Funds .....	6
* 5.	Special Project Planning Account .....	11
* 6.	1994-95 Support Budget (Informational Only) .....	12
	A. Department of Fish and Game Contract and Grants Program for Salmon Habitat Restoration .....	12
	B. Department of Water Resources Sacramento River Plan .....	12
	C. Department of Fish & Game Comprehensive Wetland Hab. Project .....	12
* 7.	1994-95 Capital Outlay Budget .....	13
	A. Department of Fish and Game Mobile Fish Hatchery .....	13
	B. Department of Fish and Game North Fork Feather River Fish Passage Modification Project .....	13
	C. Department of Fish and Game Wetland Restoration .....	13
	1) Joice Island Drain Pump, Solano County .....	13
	2) Salt Slough Pump, Merced County .....	13
	3) Mendota Waterline, Fresno County .....	13
	4) Los Banos Boundary Drain, Merced County .....	14
	D. Department of Water Resources Sacramento/San Joaquin River Acquisition .....	14
	E. Department of Parks and Recreation .....	14
* 8.	Salmon, Steelhead & Resident Fish Habitat Enhancement Projects .....	15
	A. Blue Waterhole Creek Habitat Enhancement, Mendocino County. ....	16
	B. Bummer Lake Creek Habitat Enhancement, Del Norte County. ....	16
	C. Prairie Creek Habitat Enhancement, Humboldt County. ....	17
	D. Redwood Creek Habitat Enhancement, Mendocino County. ....	17
	E. Scott River Riparian Fencing & Planting Project, Siskiyou Co. ....	17

F. Stansbury Creek Barrier Modification, Mendocino County . . . . .	18
---	----

**ITEM NO.**

**PAGE NO.**

* 9. Bend Bridge Public Access (Augmentation) Tehama County . . . . .	19
*10. Green Creek Wildlife Area, Expansion #2, Mono County . . . . .	20
*11. Santa Rosa Mountains Wildlife Area, Potrero Canyon Exp. #1, Riverside Co . . .	23
*12. Kinsman Flat Wildlife Area, Expansion #4, Madera County . . . . .	24
*13. Laguna de Santa Rosa Wildlife Area, Expansions #4 and #5, Sonoma County . . .	26
A. Expansion #4 . . . . .	27
B. Expansion #5 . . . . .	27
14. San Francisco Bay Wildlife Area (North Bay), Sulphur Creek Unit/Oro Loma Marsh Restoration, Alameda County . . . . .	30
15. Mud Slough Wildlife Area, Merced County . . . . .	33
16. Mission Creek Ecological Reserve, San Bernardino County. . . . .	36
17. Santa Margarita River Ecological Reserve, Expansion #1, Riverside County . . . .	37
18. Baldwin Lake Ecological Reserve, Expansion #2, San Bernardino County . . . . .	43
19. King Clone Ecological Reserve, San Bernardino County . . . . .	45
20. Wetland Conservation Easement Program (Department of Fish and Game) - Holmestead 2, Yuba County . . . . .	47

**OTHER BUSINESS**

21. Closure of Vallejo Fishing Pier, Solano County . . . . .	49
--	----

Program Statement . . . . .	51
-----------------------------	----

Attachment - California Wildlife Protection Act of 1990 Summary

Attachment - Staff Report on Santa Margarita River Ecological Reserve, Expansion #1,  
Riverside County

DEPARTMENT OF FISH AND GAME

**WILDLIFE CONSERVATION BOARD**

K STREET, SUITE 806  
SACRAMENTO, CA 95814  
(916) 445-8448  
FAX (916) 323-0280



State of California  
The Resources Agency  
Department of Fish and Game  
**WILDLIFE CONSERVATION BOARD**

**MINUTES, MEETING OF NOVEMBER 10, 1994**

Pursuant to the call of Chairperson Frank Boren, the Wildlife Conservation Board met in Room 126 of the State Capitol, Sacramento, California, on November 10, 1994. The meeting was called to order at 10:00 a.m. Introductions were made at this time.

**1. Roll Call****WILDLIFE CONSERVATION BOARD MEMBERS**

Frank Boren, Chairperson  
President, Fish and Game Commission  
Stan Stancell, Chief Deputy Director,  
Vice, Russell Gould, Member  
Director, Department of Finance  
Boyd Gibbons, Member  
Director, Department of Fish and Game

**JOINT LEGISLATIVE INTERIM ADVISORY COMMITTEE**

Krist Lane,  
Vice, Senator Mike Thompson  
Edna Maita,  
Vice, Assemblyman Jim Costa  
Assemblyman Dan Hauser  
Mary Morgan,  
Vice, Assemblyman Dan Hauser

**Absent:** Assemblyman Phillip Isenberg  
Senator Pat Johnston  
Senator Dan Mc Corquodale  
Senator Daniel Boatwright (Alternate)

Minutes of Meeting, November 10, 1994  
Wildlife Conservation Board

Staff Present: W. John Schmidt, Executive Director  
Clyde Edon, Assistant Executive Dir/Administration-Development  
Marilyn Cundiff-Gee, Wetlands Program Manager  
Scott Clemons, Riparian Program Manager  
Bob Schulenburg, Field Agent  
Jim Sarro, Chief Land Agent/Assistant Executive Director  
Howard Dick, Senior Land Agent  
Georgia Lipphardt, Senior Land Agent  
Debbie Townsend, Associate Land Agent  
Sylvia Gude, Staff Services Analyst  
Jan Beeding, Office Technician  
Sandy Daniel, Executive Secretary

Others Present: John Bell, Citizen  
Sharon Bolton, California Land Institute  
Dave Widell, Grassland Water District  
Don Marchiochi, Grassland Water District  
Scott Ferguson, The Nature Conservancy  
Mike Bambauer, Citizen  
Louie Amabile, Citizen  
Lynn Sadler, Planning and Conservation League  
Holly Hopkins, Ducks Unlimited  
Jack Payne, Ducks Unlimited  
Katy Hopkins, No. California Water Association  
Susan Williams, East Bay Regional Park District  
Mark Palmer, Mountain Lion Foundation  
Ed Smith, Department of Fish and Game, Fresno  
Glenn Rollins, Department of Fish and Game, Sacramento  
Nancy Vierra, Department of Fish and Game, Sacramento  
John Anderson, Department of Fish and Game, Long Beach

Mr. Boren announced the celebration of 25 years of faithful State service to Mr. W. John Schmidt. John joined the Board staff in 1975 as an Associate Land Agent and was later appointed Executive Director, in 1982. Mr. Boren added that he found John's professionalism excellent, extremely thorough and expressed desire to continue working together. Mr. Boren then presented Mr. Schmidt with a 25 year award plaque and a watch. Mr. Schmidt stated this was a real surprise and thanked everyone. He added that while starting with the Board in 1975 did not equate to 25 years, he did start with the State in 1968 which does equal 25 years.



\* **CONSENT CALENDAR (Items #2-13)**

Mr. Schmidt reported that the Consent Calendar consisted of Item Nos. 2-13. He then gave the audience and/or Board Members the opportunity to request that an item be removed from the consent calendar. Hearing no requests for removal of any items, he then recommended a vote on the Consent Calendar as proposed in the individual agenda explanations, including funding as noted therein.

Mr. Boren stated he had reviewed the items, and did not object to any item, but asked that Items #6 and #7 be pulled for discussion purposes. In response to a prior request of Mr. Boren, Mr. Schmidt gave a brief presentation of Proposition 117, explaining its provisions and what it allows and prohibits. A summary titled "California Wildlife Protection Act of 1990" had been prepared and a copy was given to each member (copy attached). It was noted that this summary was not a legal interpretation but only an interpretation by WCB staff. Mr. Schmidt indicated that the Items #6 and #7 were budgeted line items in the 1994/95 budget and requested that the Board endorse those projects as contained in the budget. He further added that Item #6 was a support item of which the Board has never been asked to taken action on in the past and that's why it was shown as an informational item. Item #7 was a capital outlay item and the Board has historically chosen to act on all capital outlay items regardless of whether they were line items in the budget or not.

Ms. Lynn Sadler, representing the Planning and Conservation League (PCL), stated that PCL cosponsored the Mountain Lion Initiative with the Mountain Lion Foundation and have been working on the implementation of P-117. Ms. Sadler reported that her comments were specifically directed toward the expenditure of P-117 funds. There has been a trend toward attempting to use P-117 funds more and more for programs and less and less for acquisition. She acknowledged that PCL did not object as much as they should have at the beginning of this trend but that they will be objecting strenuously in the future if this trend continues. Ms. Sadler indicated that the voters passed this initiative and it is extremely clear that the money is to be spent specifically for acquisition. This initiative can be overturned by another initiative or by a two-thirds vote of the Legislature, as long as it is consistent with the intent of the initiative which was, and is, that the money be spent specifically on acquisition and restoration within the capital outlay definition.

Mr. Mark Palmer, representing the Mountain Lion Foundation, stated that he agreed with comments given by Ms. Sadler. Mr. Palmer noted that he understands that the State is under a very tight budget and that they are working with the administration to see if some of the budget issues can be resolved. He added that it was hopeful an arrangement can be worked out between all parties that will make P-117 work.

There was discussion regarding the appropriate use of funds for the two budgeted items and whether or not an Attorney General's Opinion should be requested. Mr. Gibbons indicated that these appropriations were the act of the Legislature and signed into law by the Governor and the law must be upheld. There is no language in the Budget Act that specifies the appropriation related to these particular projects are subject to the approval of the Wildlife Conservation Board. This is clearly a State appropriation which would occur whether the Board takes any action or not. Mr. Gibbons also stated that, on the merits of the individual items, he didn't see any projects that would suggest they were not proper.

Mr. Boren asked if there were any questions or concerns, and since there was no further discussion, the following action was taken.

IT WAS MOVED BY MR. GIBBONS THAT THE WILDLIFE CONSERVATION BOARD APPROVE CONSENT CALENDAR ITEM NOS. 2-13, AS PROPOSED IN THE INDIVIDUAL AGENDA EXPLANATIONS, INCLUDING FUNDING AS NOTED THEREIN.

MOTION CARRIED.

\* 2. Approval of Minutes (CONSENT CALENDAR)

Approval of minutes of the August 11, 1994, meeting of the Wildlife Conservation Board was recommended.

AS ONE OF THE CONSENT ITEMS HEARD AT THE BEGINNING OF THE MEETING, IT WAS MOVED BY MR. GIBBONS THAT THE MINUTES OF THE AUGUST 11, 1994, MEETING BE APPROVED AS WRITTEN.

MOTION CARRIED.

Minutes of Meeting, November 10, 1994  
Wildlife Conservation Board

\* 3. Funding Status as of November 10, 1994 (Informational Only)  
(CONSENT CALENDAR)

(a) 1994-95 Wildlife Restoration Fund Capital Outlay Budget

Governor's Budget - Land Acquisitions . . . . . \$ 750,000.00

Governor's Budget - Minor Projects . . . . . \$749,000.00

Less Previous Board Allocations . . . . . -250,000.00

Unallocated Balance . . . . . \$ 499,000.00

(b) 1993-94 Environmental License Plate Fund Capital Outlay Budget

Added to Governor's Budget by Ch. 1241 . . . . . \$ 572,000.00

(c) 1992-93 Fish and Wildlife Habitat Enhancement Fund Capital Outlay Budget

Reappropriation of 1989/90 - Stream Projects . . . . . \$2,044,100.49

Less Previous Board Allocations . . . . . -1,946,297.89

Unallocated Balance . . . . . \$ 97,802.60

(d) 1992-93 Wildlife and Natural Areas Conservation Fund Capital Outlay Budget

Governor's Budget . . . . . \$2,000,000.00

Less Previous Board Allocations . . . . . -1,232,641.19

Unallocated Balance . . . . . \$ 767,358.81

(e) 1988-89 California Wildlife, Coastal & Park Land Conservation Fund Capital Outlay Budget

Direct appropriation to the Wildlife Conservation Board . . . . \$81,300,000.00

Less Previous Board Allocations . . . . . -63,029,092.06

Less State Administrative Costs . . . . . - 1,219,500.00

Less Reverted Funds . . . . . -11,528,799.69

Plus Reappropriated Funds . . . . . 11,528,799.69

Unallocated Balance . . . . . \$17,051,407.94

(f) 1994-95 Habitat Conservation Fund Capital Outlay Budget

Governor's Budget . . . . . \$8,703,000.00

Less Previous Board Allocations . . . . . -1,700,000.00

Unallocated Balance . . . . . \$7,003,000.00

(g) 1993-94 Habitat Conservation Fund Capital Outlay Budget

Governor's Budget	\$9,844,000.00
Less Previous Board Allocations	-2,245,778.40
Unallocated Balance	\$7,598,221.60

(h) 1992-93 Habitat Conservation Fund Capital Outlay Budget

Governor's Budget	\$ 9,194,000.00
Less Previous Board Allocations	-6,434,586.07
Unallocated Balance	\$ 2,759,413.93

RECAP OF FUND BALANCES

<u>Wildlife Restoration Fund</u>	\$ 1,249,000.00
<u>1984 Fish &amp; Wildlife Habitat Enhancement Fund</u>	\$ 97,802.60
<u>Ca. Wildlife, Coastal &amp; Park Land Conservation Fund of 1988</u>	\$17,051,407.94
<u>Wildlife &amp; Natural Areas Conservation Fund</u>	\$ 767,358.81
<u>Ca. Environmental License Plate Fund</u>	\$ 572,000.00
<u>Habitat Conservation Fund</u>	\$17,360,635.53

\* 4. Recovery of Funds (CONSENT CALENDAR)

The following 19 projects previously authorized by the Board have balances of funds that can be recovered and returned to their respective funds. It was recommended that the following totals be recovered and that the projects be closed.

\$2,179.00 to the Wildlife Restoration Fund,  
\$194,280.74 to the Fish and Wildlife Habitat Enhancement Fund,  
\$20,542.00 to the Habitat Conservation Fund,  
\$523,756.45 to the Calif. Wildlife, Coastal & Park Land Conservation Fund,  
\$7,105.00 to the Wildlife and Natural Areas Conservation Fund.

**WILDLIFE RESTORATION FUND**

Lake Tahoe Public Access, Restroom Renovation, Placer County

Allocation	\$ 22,500.00
Expended	<u>-22,500.00</u>
Balance for Recovery	\$ -0-

San Joaquin Hatchery Settling Pond, Fresno County

Allocation	\$ 3,000.00
Expended	<u>- 948.00</u>
Balance for Recovery	\$ 2,052.00

Yolo Bypass Wildlife Area, Expansion #1, Yolo County

Allocation	\$ 601.00
Expended	<u>- 474.00</u>
Balance for Recovery	\$ 127.00

**Total Wildlife Restoration Fund Recoveries . . . . . \$2,179.00**

**FISH AND WILDLIFE HABITAT ENHANCEMENT FUND**

Alpine Creek Denil Fishway Modification, San Mateo County

Allocation	\$ 15,000.00
Expended	<u>- 14,943.81</u>
Balance for Recovery	\$ 56.19

Bear Creek Barrier Modification, Mendocino County

Allocation	\$ 14,200.00
Expended	<u>- 14,175.84</u>
Balance for Recovery	\$ 24.16

Boyes Creek Habitat Enhancement, Humboldt County

Allocation	\$ 42,300.00
Expended	<u>- -0-</u>
Balance for Recovery	\$ 42,300.00

Minutes of Meeting, November 10, 1994  
Wildlife Conservation Board

Indian/Elk Creek Habitat Enhancement, Siskiyou County

Allocation	\$ 15,000.00
Expended	<u>- 13,211.61</u>
Balance for Recovery	\$ 1,788.39

Last Chance Creek Habitat Enhancement, Plumas County

Allocation	\$150,100.00
Expended	<u>- -0-</u>
Balance for Recovery	\$150,100.00

Little Butte Creek Trout Habitat Enhancement, Butte County

Allocation	\$ 60,900.00
Expended	<u>- 60,900.00</u>
Balance for Recovery	\$ -0-

Twin Creek Habitat Enhancement, Humboldt County

Allocation	\$ 11,200.00
Expended	<u>- 11,188.00</u>
Balance for Recovery	\$ 12.00

Total Fish and Wildlife Habitat Enhancement

Fund Recoveries ..... \$194,280.74

HABITAT CONSERVATION FUND

Stream Restoration & Fishery Enhancement Project

Allocation	\$991,000.00
Expended	<u>-990,000.00</u>
Balance for Recovery	\$ 1,000.00

Antelope Valley Wildlife Area, Expansion #2, Sierra County

Allocation	\$460,000.00
Expended	<u>-440,458.00</u>
Balance for Recovery	\$ 19,542.00



Minutes of Meeting, November 10, 1994  
Wildlife Conservation Board

San Joaquin River Riparian Habitat, Expansion #3, Fresno County

Allocation	\$1,000,000.00
Expended	<u>- 1,000,000.00</u>
Balance for Recovery	\$ -0-

Total Habitat Conservation Fund Recoveries . . . . . \$ 20,542.00

CA. WILDLIFE, COASTAL & PARK LAND CONSERVATION FUND

Grizzly Island Wildlife Area, Goodyear Slough Unit,  
Expansion #2, Solano County

Allocation	\$ 73,000.00
Expended	<u>- 66,027.00</u>
Balance for Recovery	\$ 6,973.00

Laguna de Santa Rosa Wildlife Area, Expansion #3, Sonoma County

Allocation	\$276,000.00
Expended	<u>-257,008.01</u>
Balance for Recovery	\$ 18,991.99

San Joaquin River Riparian Habitat, Expansion #3, Fresno County

Allocation	\$770,000.00
Expended	<u>-277,508.00</u>
Balance for Recovery	\$492,492.00

Upper Butte Sink Wildlife Area Wetland Development, Butte County

Allocation	\$242,112.00
Expended	<u>-239,812.54</u>
Balance for Recovery	\$ 2,299.46

Upper Sacramento River Wildlife Area, River Mile 209-L  
(Excess Land Sale), Butte County

Allocation	\$ 3,000.00
Expended	<u>- -0-</u>
Balance for Recovery	\$ 3,000.00

Total California Wildlife, Coastal and Park Land  
Conservation Fund Recoveries . . . . . \$523,756.45

WILDLIFE AND NATURAL AREAS CONSERVATION FUND

Honey Lake Wildlife Area, Upland Game Habitat Development,  
Lassen County

Allocation	\$ 45,000.00
Expended	- 37,895.00
Balance for Recovery	\$ 7,105.00

Total Wildlife and Natural Areas Conservation  
Fund Recoveries . . . . . \$7,105.00

AS ONE OF THE CONSENT ITEMS HEARD AT THE BEGINNING OF THE MEETING, IT WAS MOVED BY MR. GIBBONS THAT THE WILDLIFE CONSERVATION BOARD RECOVER FUNDS TO THE 19 PROJECTS LISTED ABOVE AND CLOSE THE PROJECT ACCOUNTS. RECOVERY TOTALS INCLUDE \$2,179.00 TO THE WILDLIFE RESTORATION FUND, \$194,280.74 TO THE FISH AND WILDLIFE HABITAT ENHANCEMENT FUND, \$20,542.00 TO THE HABITAT CONSERVATION FUND, \$523,756.45 TO THE CALIFORNIA WILDLIFE, COASTAL AND PARK LAND CONSERVATION FUND, AND \$7,105.00 TO THE WILDLIFE AND NATURAL AREAS CONSERVATION FUND.

MOTION CARRIED.

Minutes of Meeting, November 10, 1994  
Wildlife Conservation Board

\* 5. Special Project Planning Account  
(CONSENT CALENDAR)

(Informational Only)

The Board has historically used a special project account to provide working funds for staff evaluation (appraisals, engineering, preliminary title reports, etc.) of proposed projects. Upon Board approval of a project, all expenditures incurred prior to approval are transferred from the Special Project Account to the approved project and reimbursements to Special Project Accounts are made accordingly. This procedure, therefore, acts as a revolving fund for the pre-project expenses.

Some appropriations now made to the Board do not include a specific budgeted planning line item appropriation necessary to begin a project without prior Board authorization. Pre-project costs are a necessary expenditure in most all capital outlay projects. The Special Project Account would be used for these costs and to pay for State Treasurer and State Controller Offices costs for the necessary Pooled Money Bond Loans the Board applies for periodically.

The Board, at the May 6, 1986, meeting, authorized the Executive Director to use up to one (1) percent of a budgeted appropriation to set up and maintain an appropriate planning account with the provision it would be reported to the Board as an information item at the next meeting. Accordingly, the planning accounts have been set up as follows:

Habitat Conservation Fund . . . . . \$ 45,000.00

\* 6. 1994-95 Support Budget

(Informational Only)

The following items were specifically itemized in the 1994-95 Wildlife Conservation Board's support budget for funding transfers to other Departments:

- a. Department of Fish and Game Contract and Grants  
Program for Salmon Habitat Restoration \$1,339,000.00

Pursuant to Proposition 70, these funds are for salmon stream restoration projects recommended by the Commercial Salmon Stamp Advisory Committee and the Advisory Committee on Salmon and Steelhead Trout. Examples of salmon stream projects include placement of fish screens and ladders, in stream structures to provide spawning and rearing habitat, erosion control, purchase and placement of gravel to improve spawning habitat and purchase of equipment for salmon restoration projects.

- b. Department of Water Resources Sacramento River Plan \$740,000.00

These funds are to be used to develop conservation programs to preserve the riparian habitat and reestablish a continuous riparian ecosystem along the Sacramento River between the mouth of the Feather River and Keswick Dam.

- c. Department of Fish and Game Comprehensive Wetland  
Habitat Project \$780,000.00

These funds are to be used to protect, restore and enhance wetlands in California. Major emphasis of the program will be directed toward meeting the goals and objectives of the Central Valley Habitat Joint Venture. A substantial amount is being used for wetland management on DFG-owned wildlife areas to augment existing budgets.

AS ONE OF THE CONSENT ITEMS HEARD AND DISCUSSED AT THE BEGINNING OF THE MEETING, IT WAS MOVED BY MR. GIBBONS THAT THE WILDLIFE CONSERVATION BOARD APPROVE ITEMS SPECIFICALLY ITEMIZED IN THE 1994-95 WILDLIFE CONSERVATION BOARD'S SUPPORT BUDGET FOR FUNDING TRANSFERS TO OTHER DEPARTMENTS.

MOTION CARRIED.

Minutes of Meeting, November 10, 1994  
Wildlife Conservation Board

\* 7. 1994-95 Capital Outlay Budget (CONSENT CALENDAR)

To consider an allocation for the following items which were specifically itemized in the 1994-95 Wildlife Conservation Board's capital outlay budget for funding transfer to other Departments:

a) Department of Fish and Game Mobile Fish Hatchery . . . . . \$219,000.00

These funds are for purchase of vehicles including trailers, rearing troughs, and other hatchery equipment and materials needed for a portable fish rearing facility. This will allow the Department of Fish and Game to set up a temporary trout or steelhead rearing facility wherever and whenever this becomes necessary to assist in restoration of wild trout and native steelhead populations that have reached levels so low that short-term augmentation of natural reproduction is needed.

b) Department of Fish and Game North Fork Feather River Fish Passage Modification Project, Plumas County . . . . . \$100,000.00

These funds will be transferred by the Wildlife Conservation Board to the Department of Fish and Game under an interagency agreement to allow completion of this project to improve an existing fish ladder; providing better passage for rainbow and brown trout spawners.

c) Department of Fish and Game Wetland Restoration . . . . . \$519,000.00

1) Joice Island Drain Pump, Solano County . . . . . \$150,000.00

Funds will be used to enhance 1,200± acres of degraded wetland habitat through the installation of a high capacity export pump secured to a stainless steel and concrete platform. The pump will allow more efficient drainage and the leaching of soil salts, thus resulting in improved waterfowl food production.

2) Salt Slough Pump, Merced County . . . . . \$134,000.00

Proposal is to restore 150± acres of wetlands and 25± acres of adjacent nesting habitat through the installation of 4,500 lineal feet of 21 inch diameter p.v.c. pipeline. The pipeline will serve nine separate wetland units.

3) Mendota Waterline, Fresno County . . . . . \$ 75,000.00

Proposed project is to protect and enhance 1,697± acres of existing wetland habitat through the installation of a new, stainless steel, 36 inch gate and concrete headwall. While improving water management of this area, the new waterline will help protect the subject wetlands and an adjacent 200± acres of



private farm land from uncontrolled flooding from the Mendota Pool in the event the existing gate fails.

4) Los Banos Boundary Drain, Merced County . . . \$160,000.00

This proposal is to enhance the productivity of 500± acres of wetlands through the replacement of an undersized, outdated pump and concrete pipeline with two 20 horsepower pumps and 3,600 lineal feet of p.v.c. pipeline. The current structure often allows flooding to occur on adjacent properties closing an access road. Repair costs of the existing facility are both high and continuous.

d) Department of Water Resources Sacramento/San  
Joaquin River Acquisition . . . . . \$194,000.00

These funds will be transferred to the Department of Water Resources to fund riparian habitat purchases within the Sacramento and San Joaquin River.

e) Department of Parks and Recreation . . . . . \$900,000.00

These funds will be transferred to the Department of Parks and Recreation and are to be used for the acquisition of lands at Green Creek, (Expansion #2), Mono County. (November 10, 1994, WCB Agenda Item #10.)

Staff recommended that the Board approve the transfer of these funds as budgeted, through interagency agreements, from the Habitat Conservation Fund (P-117); and authorize staff and the Department of Fish and Game to proceed substantially as planned.

A letter of support was received for Item c, Department of Fish and Game Wetland Restoration Projects, from the California Waterfowl Association.

Mr. Boren asked if there were any questions or concerns, and since there was no further discussion, the following action was taken.

AS ONE OF THE CONSENT ITEMS HEARD AND DISCUSSED AT THE BEGINNING OF THE MEETING, IT WAS MOVED BY MR. GIBBONS THAT THE WILDLIFE CONSERVATION BOARD APPROVE THE 1994/95 CAPITAL OUTLAY BUDGET ITEM, TRANSFERRING FUNDS AS BUDGETED, THROUGH INTERAGENCY AGREEMENTS, FROM THE HABITAT CONSERVATION FUND (P-117); AND AUTHORIZE STAFF AND THE DEPARTMENT OF FISH AND GAME TO PROCEED SUBSTANTIALLY AS PLANNED.

MOTION CARRIED.



\* 8. Salmon, Steelhead & Resident Fish Habitat Enhancement Projects \$136,300.00  
(CONSENT CALENDAR)

It was proposed that the Board allocate funds for the enhancement and rehabilitation of salmon, steelhead and resident fish spawning and rearing habitat on six waterways in California.

The anadromous fishery resource in California has suffered a severe decline over the past thirty years. For example, records indicate that the chinook salmon population in the Klamath River Basin has declined from a historic level of 500,000 to 180,000 by 1963, 115,000 by 1978, 55,000 by 1984 to 33,000 by 1991. One of the major causes for this decline is degradation of natural habitat due to stream and watershed disturbances from logging, road construction, mining and other activities associated with modern development. There has been a dramatic increase in the numbers of artificially produced fish returning to the Klamath system since 1985. Returns of naturally produced salmon are still very low, however, due to the recent drought and widespread loss of habitat.

In addition, the 1964 flood, which produced record high flows in many waterways in northern California, caused serious damage or completely destroyed miles of productive salmon and steelhead habitat. In addition to thousands of cubic yards of debris and sediment being deposited in the lower gradient sections of the streams, miles of flood riffles were also created by the high flood waters.

Flood riffles are broad, shallow stream sections commonly referred to as "bowling alleys" which are composed primarily of 6 to 8 inch cobbles or boulders. These areas lack pools and provide little if any spawning or rearing habitat for salmon and steelhead. Some streams have usable spawning and rearing habitat that is blocked by a rock or log barrier. Modification of these barriers can open miles of good habitat that currently can not be reached by anadromous fish. Flood waters also caused the loss of bank stability and associated streamside shade canopy which is needed to maintain cooler summer water temperatures required for survival of juvenile salmon and trout. Since anadromous fish spend the juvenile portion of their life cycle in their natal stream, the need for adequate rearing habitat is a significant factor relative to the overall status of a population.

Habitat enhancement and restoration is also needed on many interior streams that support populations of resident fish species. Over the years grazing and timber harvest practices, coupled with damage from high storm flows, has caused serious impacts to many of California's smaller interior streams resulting in an overall degrading of habitat.

Many of the problems associated with the larger coastal streams are also common to the smaller interior waterways. Long stretches of some interior streams also lack the proper pool-riffle ratio and require log-rock weir structures and boulder clusters to re-create the proper habitat diversity. Unstable streambanks are common and create conditions that reduce stream habitat values.

Streambanks lacking cover generate increased sedimentation which smothers spawning gravel and fill pools needed for rearing habitat. The lack of streambank riparian growth also results in higher water temperatures, less hiding cover and a reduced food source. Some segments of streams that are heavily fished lack adequate hiding and holding cover which reduces angler success and lessens the fishing experience. Stream habitat modifications are also necessary to protect, enhance and restore populations of threatened or endangered species of fish.

The following stream restoration projects have been recommended by the Department of Fish and Game. They are exempt from CEQA under Section 15301, Class 1 (i), maintaining fish habitat and stream flows to protect fish. A Notice of Exemption or other appropriate environmental documentation has been filed for each project. The projects listed in this item are intended to correct or enhance situations identified above. The Department of Fish and Game will, in all cases, either administer projects themselves, or monitor the work of public agencies or nonprofit organizations.

Site specific information for each of the six proposed habitat enhancement projects is briefly provided below:

A. Blue Waterhole Creek Habitat Enhancement, Mendocino County \$16,000.00

This was a proposed cooperative project between the Department of Fish and Game and New Growth Forestry, a private, nonprofit organization, for the enhancement of coho and steelhead trout in Blue Waterhole Creek, Mendocino County. Currently, barriers created by bed rock formation and debris accumulation are preventing fish from reaching spawning habitat. Seven such areas have been identified as barriers to fish migration and are proposed to be modified for fish passage by deepening the existing pools. In addition, selected logs in or adjacent to the stream will be anchored to prevent movement and the formation of future barriers and provide pool habitat and cover for downstream migrants. The project will be administered by New Growth Forestry, under the direction of the Department of Fish and Game.

B. Bummer Lake Creek Habitat Enhancement, Del Norte County \$28,100.00

This Department of Fish and Game proposed project consists of constructing a total of 14 stream enhancement structures on Bummer Lake Creek, a tributary to the Smith River. The project is intended to create additional winter habitat for steelhead and cutthroat trout and coho salmon. The work will consist of developing habitat by anchoring logs in the stream and allowing the flow of water to create scour pools, provide edge cover and high flow refuge in areas of long uniform riffles. The developed pools and woody cover will provide better habitat conditions for steelhead and salmon. The project will be administered by the California Conservation Corps (Del Norte Center), under the direction of the Department of Fish and Game.

C. Prairie Creek Habitat Enhancement, Humboldt County \$17,400.00

This was a proposed cooperative project between the Department of Fish and Game and the Redwood Community Action Agency, to plant approximately 1,200 trees along Prairie Creek, a tributary to Redwood Creek. Two species of salmon (coho and chinook) and steelhead trout inhabit this creek, with recent data indicating a limited number of fish returning to the stream to spawn. The proposed project will provide for the planting of riparian vegetation and conifer species which will accelerate the vegetative growth along the creek and thus provide shade and eventually woody debris along the river, an essential habitat component for successful salmonid rearing. This project will be administered by the Redwood Community Action Agency, under the direction of the Department of Fish and Game.

D. Redwood Creek Habitat Enhancement, Mendocino County \$27,000.00

This was a proposed cooperative project between the Department of Fish and Game and the Center for Education and Manpower Resources, Inc., a private, nonprofit organization, for the enhancement of coho salmon and steelhead trout in the Redwood Creek drainage, Mendocino County. Redwood Creek, which is a tributary to the Ten Mile River, has had a past history of good salmon and steelhead production. However, a newly formed log barrier is preventing fish from reaching spawning habitat in the upper reaches and smaller tributaries. In addition to removing the barrier, selected logs in or adjacent to the stream will be anchored to prevent movement and the formation of future barriers. These structures will also provide pool habitat and cover for downstream migrants. Approximately seven additional miles of upstream habitat will be made available for spawning when this project is completed. The project will be administered by the Center for Education and Manpower Resources, Inc., under the direction of the Department of Fish and Game.

E. Scott River Riparian Fencing and Planting Project, Siskiyou County \$19,700.00

This was a proposed cooperative project between the Department of Fish and Game and the Siskiyou Resource Conservation District, a private, nonprofit organization, to fence approximately 2,300 feet of riparian habitat and to plant approximately 2,500 feet of riparian vegetation along Scott River, a tributary to the Klamath River, Siskiyou County. Two species of salmon (coho and chinook) and steelhead trout inhabit this river; with recent data indicating that a high density of fish are returning to the stream to spawn. Part of the problem is felt to be the lack of streamside habitat due to livestock grazing along the stream. The construction of the fence will exclude cattle from the stream and reduce the sediments entering the river as a result of bank failures and erosion. The planting of riparian vegetation will accelerate the vegetative growth and provide shade and eventually woody debris along the river,



an essential habitat component for successful salmonid rearing. This project will be administered by the Siskiyou Resource Conservation District, under the direction of the Department of Fish and Game.

F. Stansbury Creek Barrier Modification, Mendocino County \$27,500.00

This was a proposed cooperative project between the Department of Fish and Game and New Growth Forestry, a private, nonprofit organization, for the enhancement of coho and steelhead trout in Stansbury Creek, Mendocino County. Currently, barriers created by bed rock formation and debris accumulation are preventing fish from reaching spawning habitat. Six such areas have been identified as barriers to fish migration and are proposed to be modified for fish passage by deepening the existing pools. In addition, selected logs in or adjacent to the stream will be anchored to prevent movement and the formation of future barriers and provide pool habitat and cover for downstream migrants. Approximately one mile of upstream habitat will be made available for spawning when this project is completed. The project will be administered by New Growth Forestry, under the direction of the Department of Fish and Game.

Administrative contract costs to process the contracts for the listed projects is estimated at \$600.00.

Staff recommended that the Board approve these six salmon, steelhead and resident fish projects as one item as proposed; allocate \$136,300.00 from the 1984 Fish and Wildlife Habitat Enhancement Fund (P-19), which includes \$600.00 to cover the Department of General Services contract review costs; and authorize staff and the Department of Fish and Game to proceed substantially as planned.

A letter of support was received from the Mountain Lion Foundation.

AS ONE OF THE CONSENT ITEMS HEARD AT THE BEGINNING OF THE MEETING, IT WAS MOVED BY MR. GIBBONS THAT THE WILDLIFE CONSERVATION BOARD APPROVE THE SIX SALMON, STEELHEAD AND RESIDENT FISH HABITAT ENHANCEMENT PROJECTS AS ONE ITEM AS PROPOSED; ALLOCATE \$136,300.00 FROM THE 1984 FISH AND WILDLIFE HABITAT ENHANCEMENT FUND (P-19), WHICH INCLUDES \$600.00 TO COVER THE DEPARTMENT OF GENERAL SERVICES CONTRACT REVIEW COSTS; AND AUTHORIZE STAFF AND THE DEPARTMENT OF FISH AND GAME TO PROCEED SUBSTANTIALLY AS PLANNED.

MOTION CARRIED.

Minutes of Meeting, November 10, 1994  
Wildlife Conservation Board

\* 9. Bend Bridge Public Access (Augmentation), Tehama County \$60,000.00  
(CONSENT CALENDAR)

This proposal was to seek Board approval for a funding augmentation to allow for the completion of the previously authorized Bend Bridge Public Access Project. On March 9, 1993, the Board allocated \$250,000 toward the reconstruction of this heavily used project. However, due to costs not anticipated during preliminary engineering, additional funds will be needed to complete the project.

The Bend Bridge Public Access is located in north-central Tehama County approximately seven miles northerly of Red Bluff on the east bank of the Sacramento River; at Bend Ferry Road. It was one of the first boat ramps on the Sacramento River to be developed by the Board to improve angler access. In 1957, the Board acquired 4.4 acres of land with 580± feet of river frontage; followed closely thereafter with construction of the launching facilities. Public use of this rural access continues to be very popular with approximately 20,000 user days recorded in 1991.

This access project has been operated and maintained by Tehama County since its original construction. Because of its inadequate size and poor condition, the County passed a resolution in favor of the enhancement of this popular project and has entered into a new long-term agreement for operation and maintenance of the facility at no cost to the State. From the very beginning of the reconstruction discussions, the Department of Boating and Waterways (DBW) has been a partner in the project and has designated \$240,000 toward project costs. Project construction and future operation and maintenance is being facilitated through a three-way agreement between Tehama County, the DBW and the Wildlife Conservation Board. The County, who is also administering the reconstruction project, has completed most of the work scheduled including the new boat ramp, boarding walk, parking area, concrete curbs, electrical, river bank stabilization and site work.

To reduce the chance of undercutting, the construction of the boat ramp was changed from a precast slab to a poured in place ramp; which required the use of sheet piles. This change, plus the need to bury overhead PG&E power lines, as a safety measure, has resulted in an increase in the project cost and a need for a funding augmentation. The County reports a fund balance of \$23,126.00 which will complete all remaining work except the water well and restroom building. The cost estimate for those two items is as follows:

Well, pump, tank and enclosure	\$18,000
Restroom Building	35,000
Contingency	<u>7,000</u>
TOTAL	\$60,000

This project is approved under the Federal Sport Fish Restoration Act (SFRA) Program and is therefore eligible for 75 percent reimbursement of project costs. Staff will prepare an amendment for the added cost of this augmentation and submit it to the U.S. Fish and Wildlife Service for approval. Assuming approval of this amendment, the net cost to the Board for this augmentation will be approximately \$15,000.

Staff recommended that the Board approve this funding augmentation for the Bend Bridge Public Access project as proposed; allocate \$60,000.00 from the Wildlife Restoration Fund; and authorize staff and the Department of Fish and Game to proceed substantially as planned.

AS ONE OF THE CONSENT ITEMS HEARD AT THE BEGINNING OF THE MEETING, IT WAS MOVED BY MR. GIBBONS THAT THE WILDLIFE CONSERVATION BOARD APPROVE THE FUNDING AUGMENTATION FOR THE BEND BRIDGE PUBLIC ACCESS PROJECT, TEHAMA COUNTY, AS PROPOSED; ALLOCATE \$60,000.00 FROM THE WILDLIFE RESTORATION FUND; AND AUTHORIZE STAFF AND THE DEPARTMENT OF FISH AND GAME TO PROCEED SUBSTANTIALLY AS PLANNED.

MOTION CARRIED.

\*10. Green Creek Wildlife Area, Expansion #2, Mono County \$10,000.00  
(CONSENT CALENDAR)

This was a proposal to consider accepting 360± acres of land, to be acquired through the Public Works Board, with funds budgeted to the Department of Parks and Recreation (DPR) for the purchase of land along Green Creek, Mono County. The Board previously authorized the purchase of 360 acres in two separate actions at the February 10, 1994, and May 5, 1994, meetings. The property is located approximately eight miles south of Bridgeport, about four miles southwest of Highway 395 via Green Creek Road. Green Creek is a popular destination area for campers staying at the nearby Green Creek Campground which is operated by the U.S. Forest Service.

The total proposed acquisition is a cooperative project involving the Board, the Trust for Public Land (TPL), the Department of Fish and Game (DFG) and the U.S. Bureau of Land Management (BLM), and now the Department of Parks and Recreation. TPL had optioned an entire 800 acre ownership which is an irregular shaped parcel encompassing about four miles of Green Creek. The BLM proposes to acquire an 80 acre portion of the property which includes a reservoir known as "Dynamo Pond", an historical landmark that was used to produce electricity for the ghost town of Bodie.



Minutes of Meeting, November 10, 1994  
Wildlife Conservation Board

This proposal is to allocate funds to pay the administrative and escrow costs of acquisition for the 360± acres. By a separate action, the \$900,000 purchase price will be authorized by the Public Works Board (PWB) with funds appropriated to the Department of Parks and Recreation specifically for this acquisition. The actions by the PWB and this Board will complete the State's portion of this proposed 800 acre acquisition project.

The property contains a wide array of fish and wildlife resources. Green Creek contains good fishery populations which include brown, rainbow and brook trout. The property is also extremely important as a mule deer migration corridor with telemetry data showing approximately 1,600 deer using this area during their spring and fall migrations. These deer populate hundreds of square miles of the Central Sierra Nevada mountains. Several hundred deer are known to hold over on this property during their spring migration, in part because it contains vital foraging areas for pregnant does, as well as good fawning habitat.

Critical habitat is also found on the property for several threatened or endangered species. The State threatened Sierra red fox and wolverine have been sighted in the vicinity while endangered bald eagle sightings have been verified on the property. The yellow warbler, a species of special concern, has also been sighted on the property.

Other wildlife which can be found using this property include mountain lion, black bear, beaver, small rodents, raptors, sage grouse, blue grouse, mountain quail, and small birds associated with high mountain meadows. It also provides important nesting habitat for water associated birds, including mallards, Canada geese, cinnamon teal, American coot, Sora rail, common snipe, and other species.

According to the Department of Fish and Game, Green Creek Wildlife Area will be managed in conjunction with nearby Department lands at Pickel Meadow, Walker River and Little Antelope Valley. The acquisition is exempt from CEQA under Class 13 of categorical exemptions as an acquisition of land for wildlife conservation purposes.

The proposed acquisition represents an opportunity for the public to protect this area from possible rural homesite development. This type of development is highly likely due to its proximity to Highway 395, its level topography, and the creek frontage it provides. In fact, similar subalpine valleys to the north and south of Green Creek have been extensively developed in recent years. The landowner has indicated that subdivision of the land into 40-acre parcels will occur if the land is not acquired by a public agency. Potential hydropower development could also negatively impact the fishery resources and public use of Green Creek.

The approved appraised fair market value for the subject 360± acres is \$900,000. This money will be provided by the Department of Parks and Recreation through the Public Works Board. However, it is estimated that \$10,000 will be needed to cover acquisition

costs including escrow fees, title insurance and the Department of General Services review and processing charges. DPR's budget allocation did not include sufficient funds for these costs, therefore they are being requested from the Board thereby allowing this critical purchase to proceed.

Staff recommended that the Board approve the acceptance of the 360± acre property from the Public Works Board and the Department of Parks and Recreation as proposed; allocate \$10,000.00 from the Habitat Conservation Fund/P-117 (aquatic and riparian) to cover costs of acquisition; and authorize staff and the Department of Fish and Game to proceed substantially as planned.

A letter of support was received from the Mountain Lion Foundation.

AS ONE OF THE CONSENT ITEMS HEARD AT THE BEGINNING OF THE MEETING, IT WAS MOVED BY MR. GIBBONS THAT THE WILDLIFE CONSERVATION BOARD APPROVE THE ACCEPTANCE OF THE 360± ACRE PROPERTY FROM THE PUBLIC WORKS BOARD AND THE DEPARTMENT OF PARKS AND RECREATION FOR THE GREEN CREEK WILDLIFE AREA, EXPANSION #2, MONO COUNTY, AS PROPOSED; ALLOCATE \$10,000.00 FROM THE HABITAT CONSERVATION FUND/P-117 (AQUATIC AND RIPARIAN) TO COVER COSTS OF ACQUISITION; AND AUTHORIZE STAFF AND THE DEPARTMENT OF FISH AND GAME TO PROCEED SUBSTANTIALLY AS PLANNED.

MOTION CARRIED.

- \*11. Santa Rosa Mountains Wildlife Area, Potrero Canyon  
Expansion #1, Riverside County (CONSENT CALENDAR) \$163,250.00

This proposal was for the acquisition of 158± acres of land lying southerly of the City of Palm Desert, in the Santa Rosa Mountains. The proposal is part of the Department of Fish and Game's (DFG) ongoing cooperative effort with the U.S. Bureau of Land Management (BLM) and private conservation organizations to protect the habitat that is critical to threatened bighorn sheep which utilize this range.

Historically, the general area was comprised of checkerboard BLM/private ownerships. As pressure for development of private properties increased in the 1970's, the DFG and BLM began the coordinated effort of identifying the critical bighorn range and migration corridors, followed by efforts to consolidate public ownership of those areas deemed critical to the herds. To date, the Board has acquired over 28,000 acres in the Santa Rosa Mountains in the furtherance of this goal.

In the current proposal, the recently created agency, the Coachella Valley Mountains Conservancy (CVMC), has negotiated an agreement to acquire approximately 2,866 acres within five sections, all in one ownership. The agreement provided that if funding and acquisition of the 475± acres (Phase 1) in the proposal was successfully concluded, the CVMC or its designee would have an option to acquire the balance of the ownership in phases over the next two years. The Board received an assignment of the Phase 1 option and exercised it last November. If all phases of the option are exercised, the final phase would provide a bargain-sale at \$206,000 below fair market value. Acquisition of any or all of the properties is clearly a benefit to the habitat protection effort. This current proposal is for the exercise of the second phase covering 158± acres lying adjacent to Phase 1. The BLM and CVMC are now seeking funding to exercise the option on the remainder of the optioned property.

The DFG strongly supports this purchase and the ongoing efforts of the Board, the BLM, the CVMC and private conservation groups in this habitat preservation project. The Department would manage the land in conjunction with the present management of its Santa Rosa Mountains land and expects no increase in management costs as a result of this addition.

The owner of this 158± acre parcel has agreed to sell at the appraised value of \$158,250. An additional \$5,000 is estimated to be necessary to cover escrow, title insurance and Department of General Services review costs. The acquisition is exempt from CEQA under Class 13 of categorical exemptions as an acquisition of land for wildlife conservation purposes.

Staff recommended that the Board approve this acquisition as proposed; allocate \$163,250.00 from the Habitat Conservation Fund (P-117) to cover the purchase price and related costs; and authorize staff and the Department of Fish and Game to proceed

substantially as planned.

Letters of support were received from Senator David Kelley, Assemblywoman Julie Bornstein, Coachella Valley Mountains Conservancy and the Mountain Lion Foundation.

AS ONE OF THE CONSENT ITEMS HEARD AT THE BEGINNING OF THE MEETING, IT WAS MOVED BY MR. GIBBONS THAT THE WILDLIFE CONSERVATION BOARD APPROVE THE ACQUISITION OF THE SANTA ROSA MOUNTAINS WILDLIFE AREA, POTRERO CANYON EXPANSION #1, RIVERSIDE COUNTY, AS PROPOSED; ALLOCATE \$163,250.00 FROM THE HABITAT CONSERVATION FUND (P-117) TO COVER THE PURCHASE PRICE AND RELATED COSTS; AND AUTHORIZE STAFF AND THE DEPARTMENT OF FISH AND GAME TO PROCEED SUBSTANTIALLY AS PLANNED.

MOTION CARRIED.

\*12. Kinsman Flat Wildlife Area, Expansion #4, Madera County \$330,000.00  
(CONSENT CALENDAR)

This proposal was for the acquisition of 123± acres of critical deer winter range at Kinsman Flat, in eastern Madera County, for expansion of the State's holdings in the area. Kinsman Flat is an historic deer winter range located approximately 40 miles northeast of the City of Fresno. It is the primary wintering area for an estimated 4,000-5,000 deer of the San Joaquin deer herd. Some of the Department's earliest experimental work to improve deer range was carried out here in recognition of the area's importance as wildlife habitat.

In four separate actions between 1975 and 1985, the Wildlife Conservation Board authorized the acquisition of 450 acres for protection of the Kinsman Flat deer winter range. This included a protective conservation easement over 80 acres contained within the subject 123-acre parcel.

This property, which recently went on the open market, was in the first priority group in the Department's Kinsman Flat acquisition proposal more than 20 years ago, and it remains a top priority today. It is made even more important by its location, being bounded by U.S. Forest Service and Department of Fish and Game (DFG) lands on all sides. Its acquisition would greatly simplify the management of the range, which is currently undertaken on a cooperative basis by DFG and the U.S. Forest Service.

A current appraisal of the property and its improvements, at \$321,300.00 has been



Minutes of Meeting, November 10, 1994  
Wildlife Conservation Board

approved by the Department of General Services as being the appropriate current fair market value. The owners have agreed to sell at this price. The estimated closing expenses, appraisal review charges and Department of General Services review costs are estimated to be \$8,700.

The proposed acquisition is within Class 13 of categorical exemptions from CEQA requirements. Class 13 consists of the acquisition of lands for fish and wildlife conservation purposes, including fish and wildlife habitat.

Staff recommended that the Board approve this acquisition as proposed; allocate \$330,000.00 from the Habitat Conservation Fund (P-117) to cover the purchase price and related costs; and authorize staff and the Department of Fish and Game to proceed substantially as planned.

A letter of support was received from the Mountain Lion Foundation.

AS ONE OF THE CONSENT ITEMS HEARD AT THE BEGINNING OF THE MEETING, IT WAS MOVED BY MR. GIBBONS THAT THE WILDLIFE CONSERVATION BOARD APPROVE THE ACQUISITION OF THE KINSMAN FLAT WILDLIFE AREA, EXPANSION #4, MADERA COUNTY, AS PROPOSED; ALLOCATE \$330,000.00 FROM THE HABITAT CONSERVATION FUND (P-117) TO COVER THE PURCHASE PRICE AND RELATED COSTS; AND AUTHORIZE STAFF AND THE DEPARTMENT OF FISH AND GAME TO PROCEED SUBSTANTIALLY AS PLANNED.

MOTION CARRIED.

\*13. Laguna de Santa Rosa Wildlife Area, Expansions #4 and #5,  
Sonoma County (CONSENT CALENDAR) \$127,000.00

This was a proposal to consider the acquisition of approximately 21 acres of land located in and adjacent to the Laguna de Santa Rosa, including both wetlands and immediately adjacent uplands. A second proposal is to acquire, by donation from the Sonoma County Water Agency, approximately 7 miles (78± acres) of the Laguna "pilot" channel, containing key wetland and riparian habitat.

The Wildlife Conservation Board staff, using Department of Fish and Game funds, initiated acquisition in this area in 1980 with the purchase of the 75 acre Laguna Ecological Reserve to protect seasonal vernal pools, valley oaks and endangered species. Beginning in 1989, and to date, the Board has authorized the acquisition of a total of 425 acres within the Laguna at varied locations. The Conceptual Area Acquisition Plan (CAAP) prepared by the Department of Fish and Game for the Laguna de Santa Rosa Wildlife Area proposes to connect these parcels.

Both of the proposed acquisitions are considered "first priority parcels" within the CAAP, as properties that contain the highest wildlife species or habitat values (existing or restorable). These parcels contain the core wetland habitats of the Laguna de Santa Rosa; seasonal upland floodway and the bottom wetlands of the Laguna channel. The acquisition of the "pilot" channel will be the primary connector of the parcels in the flood plain which are currently under the administration of the Department, including the proposed acquisition of the 21± acres.

Acquisition of the subject properties will primarily benefit wetland associated species, resident as well as migratory. The wetland habitats of the Laguna ecosystem contain or support the greatest number of rare, endangered and unusual species found in any one Sonoma County area including, but not limited to, the yellow-billed cuckoo, peregrine falcon, southern bald eagle, freshwater shrimp and tiger salamander. State-listed rare, threatened or endangered plant species found in the Laguna area include white sedge, Burke's goldfields, Sebastopol meadowfoam and many-flowered navarretia. The Laguna de Santa Rosa is a wetland of major significance and interest to federal, state and local agencies.

The habitats of the Laguna have been severely impacted by historic and ongoing livestock grazing, agriculture, irrigation (groundwater and wastewater), development, channelization and fragmentation. Present zoning does not allow for the planned management of the vital wetland habitats being lost to increased human uses. Acquisition of the subject properties will allow for enhancement of natural values and long-term survival for all wetland species within the Laguna.

The rich riparian and marsh habitats, with high species diversity and scenic quality, also makes the area of high value for bird watching, nature study, hiking and equestrian



trails. An access plan is proposed for the larger management area which will include access routes which do not impact existing homes, and recreational uses which are compatible under a management plan designed to protect its wildlife values.

Consistent with long-range planning purposes, staff of the Board has been conducting negotiations to pursue acquisition of "first priority parcels" containing sensitive wetland habitat components and are presenting the following two proposals for Board consideration.

A. Expansion #4 - \$125,000.00

This was a proposal to acquire approximately 21 acres of land located near the easterly end of Morse Road, which in turn is to the southeast of the City of Sebastopol. Direct access is provided by a 50-foot access easement which extends from Morse Road south to the subject property. An access easement will be established across Grantor's remaining lands and shall be limited to use for administrative purposes.

The vast majority of the subject property is affected by the flood plain and an estimated 2± acres are adjoining uplands. The site, which does not include improvements, consists of grassland with vernal pools along the Laguna channel to support Sebastopol meadowfoam. The lands in the immediate area are mainly rural in nature, with the Laguna de Santa Rosa being the main physical feature. The property to the northwest is developed to older, single family residential and light commercial use.

The owners have agreed to sell approximately 21 acres of their property, the exact acreage to be determined upon completion of a survey, at its approved fair market value of \$4,500 per acre for the flood plain, \$8,000 per acre for the upland, plus the easement. An additional \$16,000 is estimated to cover the costs of the appraisal, survey, escrow, closing and administrative charges, bringing the total allocation necessary to \$125,000.

B. Expansion #5 - \$2,000.00

This was a proposal to acquire, by donation from the Sonoma County Water Agency, a portion of the Laguna de Santa Rosa "pilot" channel, contained within two parcels consisting of approximately 78 acres, and extending an estimated 7-8 miles. One parcel extends from a point approximately 4,500 feet upstream of Occidental Road to a point approximately 3,000 feet upstream of River Road. The second parcel extends from State Highway 12 in Sebastopol, downstream approximately 2,000 feet.

The agency constructed the "pilot" channel along the Laguna in the late 1950's and

the 1960's to provide a defined watercourse during the low-flow summer months. However, they no longer operate or maintain flood control facilities within these parcels of land. The "pilot" channel is generally inundated during most flood events by several feet of water. Therefore, no flood control benefits are realized by maintaining this reach of the Laguna.

The Department of Fish and Game is seeking ownership of a portion of the pilot channel as part of the Pacific Coast Joint Venture's program for the conservation and enhancement of waterfowl habitat. The Pacific Coast Joint Venture (PCJV) is one of several groups organized under the North American Waterfowl Management Plan with the purpose of facilitating the conservation of waterfowl and other migratory water birds, and the habitats upon which they depend. The plan is an international agreement between the United States and Canada and is being coordinated within the United States by the United States Fish and Wildlife Service. The PCJV covers an area that extends from the mouth of the Skeena River in British Columbia to just north of San Francisco Bay. The Laguna de Santa Rosa lies within the Southern Focus Area of the PCJV. The Southern Focus Area includes the watersheds within Marin, Sonoma and Mendocino Counties that drain into the Pacific Ocean.

Efforts to conserve and enhance waterfowl habitat within the Southern Focus Area are being spearheaded by the Sonoma County Implementation Committee. This committee consists of a diverse group of volunteers from government and nonprofit agencies including the Department of Fish and Game, Circuit Riders, the Sonoma County Fish and Wildlife Advisory Board, the Laguna de Santa Rosa Foundation, the City of Santa Rosa, Ducks Unlimited, the Sonoma Land Trust and the Audubon Society.

The Department of Fish and Game plans to enhance and restore wetland habitat on the subject property by restoring braided stream contours, planting native vegetation and controlling noxious exotic vegetation. The project will not alter present flood control storage capacity.

This portion of this proposal is to accept, by quitclaim, ownership of a portion of the Laguna de Santa Rosa currently owned in fee by the Sonoma County Water Agency. It is estimated that \$2,000 will be needed to cover the costs of closing and administrative charges.

The Department of Fish and Game recommends acquisition of the subject properties as a part of this major wildlife area. Potential claims to the property by way of the State Lands Commission have been considered to have no impact on the Department's acquisition. The acquisition is exempt from CEQA under Class 13 of Categorical Exemptions as an acquisition of land for preservation of wildlife habitat.

Staff of the Board has filed an application to the Environmental Enhancement and

Minutes of Meeting, November 10, 1994  
Wildlife Conservation Board

Mitigation Program and has been approved for \$340,000 for the acquisition of resource lands identified in the Laguna de Santa Rosa Wildlife Area CAAP. The purpose of the program is to provide funds to local, state, federal and nonprofit organizations for acquisitions and associated costs of resource lands to mitigate the impacts of modifications to an existing transportation facility or construction of a new transportation facility. Funds are to be appropriated in early 1995 by the California Transportation Committee and will be used as a reimbursement toward the purchase of Expansion #4, and future projects in the Laguna. After reimbursement, the net cost to the Board for Expansions #4 and #5 will therefore be approximately \$2,000.

Staff recommended that the Board approve the acquisition of these properties as proposed; allocate a total of \$127,000.00 from the California Wildlife, Coastal and Park Land Conservation Fund of 1988 (P-70), Section 5907(c)(10); and authorize staff and the Department of Fish and Game to proceed substantially as planned.

Letters of support were received from the Mountain Lion Foundation and California Waterfowl Association.

AS ONE OF THE CONSENT ITEMS HEARD AT THE BEGINNING OF THE MEETING, IT WAS MOVED BY MR. GIBBONS THAT THE WILDLIFE CONSERVATION BOARD APPROVE THE ACQUISITION OF THE LAGUNA DE SANTA ROSA WILDLIFE AREA, EXPANSIONS #4 AND #5, SONOMA COUNTY, AS PROPOSED, INCLUDING THE AUTHORIZATION TO ACCEPT GRANT FUNDS FROM THE ENVIRONMENTAL ENHANCEMENT MITIGATION PROGRAM; ALLOCATE A TOTAL OF \$127,000.00 FROM THE CALIFORNIA WILDLIFE, COASTAL AND PARK LAND CONSERVATION FUND OF 1988 (P-70), SECTION 5907 (c)(10); AND AUTHORIZE STAFF AND THE DEPARTMENT OF FISH AND GAME TO PROCEED SUBSTANTIALLY AS PLANNED.

MOTION CARRIED.

14. San Francisco Bay Wildlife Area (North Bay), Sulphur Creek Unit/  
Oro Loma Marsh Restoration, Alameda County \$500,000.00

Mr. Schmidt reported this proposal was a cooperative project between the Board and the East Bay Regional Park District to restore  $357\pm$  acres of wetlands to optimize wildlife values, improve public access and facilitate environmental management for public health and safety along the Hayward shoreline. In addition to the \$500,000 being requested at this time, the balance for this \$1.3 million project is expected to be funded by the East Bay Regional Park District with the Golden Gate Chapter of the Audubon Society donating \$10,000 towards the project. Mr. Bob Schulenburg of staff described the proposed restoration project.

The public ownerships which make up the restoration project area are as follows:

City of Hayward	$3.8\pm$ acres
U.S. Fish and Wildlife Service	$6.4\pm$ acres
Department of Fish and Game	$80.0\pm$ acres
(Pursuant to WCB action on 2/13/91)	
Oro Loma Sanitary District	$15.8\pm$ acres
East Bay Regional Park District	$249.7\pm$ acres
State Coastal Conservancy	$1.3\pm$ acres

While the project area presently includes diked salt marsh and adjacent upland areas, the ecological form and function of the marshlands have been severely altered by the restriction of tidal action and haphazard alterations of topography and drainage. Management practices at the marsh in recent years have been primarily limited to mosquito abatement and levee maintenance. Current management practices and directives from various agencies and landowners have caused resource management conflicts.

This proposal will provide for a full tidal system to be constructed, with a breach in the bayshore levee and a breach in the Sulphur Creek levee, to allow tidal inundation and drainage of the site. The restored tidal marshland ecology will change as habitats evolve. Waterfowl and shorebird habitats associated with the shallow ponds and exposed mineral sediments will evolve most rapidly. Eventually, the site is expected to develop nearly equal amounts of low tidal marsh, high tidal marsh, and ponds subject to tidal influence, while retaining a lesser amount of uplands. These major habitat types will be connected by a naturalistic tidal drainage network to discourage mosquito breeding and to be suitable for fishes common to mud flats and tidal channels of the region.

It is expected that returning this site to tidal action will result in the creation of the following habitat types:



Minutes of Meeting, November 10, 1994  
Wildlife Conservation Board

- 38± acres of minimum pond
- 30± acres of wetted perimeter/transitional areas
- 20± acres of wetland channel
- 160± acres of tidal wetland
- 51± acres of upland
- 58± acres remaining includes marshland on the outboard side of the levee and the Sulphur Creek and Bay levee areas.

Migratory waterfowl and shorebirds inhabited the brackish and salt marshes along the Hayward shoreline before the site was diked off in the late nineteenth century. With the reduced inflow of salt water, the shoreline has evolved into a seasonal wetland with a dense coverage of pickleweed, saltbrush, salt grass and other salt tolerant plant species. These plants now form a primary habitat for the endangered salt marsh harvest mouse. The proposed project will enhance the habitat for the salt marsh harvest mouse as well as wetlands for migratory birds along the Pacific Flyway. During the winter months, migratory waterfowl find a resting place for feeding when rain water pools in the wetland. Shorebirds and wading birds such as the great blue heron, snowy egret, great egret, American avocet, black-necked stilt, dunlin and least sandpiper will benefit from the creation of tidal marsh. The site also provides important roosting and foraging habitat for shorebirds during high tides and storms. Raptors, such as the short-eared owl and northern harrier, are also known to frequent this area. In addition, the establishment of tidal marsh will provide a nursery area for many species of marine fishes.

The East Bay Regional Park District operates the Hayward Regional Shoreline, which includes portions of the area being proposed for restoration. The area is open to the public for hiking and bird watching while shoreline trails offer beautiful vistas of San Francisco Bay as well as providing public access for educational purposes. The District will be responsible for the day-to-day management of the restored marsh complex property pursuant to a long-range management agreement.

Environmental documentation for this project will be completed by the East Bay Regional Park District prior to any work being started. They will also administer the proposed enhancement project under an operation and maintenance agreement with the Wildlife Conservation Board.

Mr. Schulenburg indicated that Ms. Susan Williams, representing the East Bay Regional Park District, was present should there be any questions.

Mr. Schmidt read for the record a list of support letters received: Mountain Lion Foundation, Assemblyman Johan Klehs, Senator Bill Lockyer, Golden Gate Audubon Society, U.S. Fish and Wildlife Service, Alameda County Public Works Department, Alameda County Mosquito Abatement District, Coastal Conservancy, City of Hayward - Mayor, and the Hayward Area Shoreline Planning Agency.



Staff recommended that the Board approve this project as proposed; allocate \$500,000.00 from the California Wildlife, Coastal and Park Land Conservation Fund of 1988 (P-70), Section 5907 (c)(1)(A)-1, as specifically authorized for wetland projects in the San Francisco Bay; and authorize staff and the Department of Fish and Game to proceed substantially as planned.

Mr. Boren asked if there were any questions or concerns, and since there was no further discussion, the following action was taken.

IT WAS MOVED BY MR. GIBBONS THAT THE WILDLIFE CONSERVATION BOARD APPROVE THIS COOPERATIVE RESTORATION PROJECT WITH THE EAST BAY REGIONAL PARK DISTRICT FOR THE SAN FRANCISCO BAY WILDLIFE AREA (NORTH BAY), SULPHUR CREEK UNIT/ORO LOMA MARSH RESTORATION, ALAMEDA COUNTY, AS PROPOSED; ALLOCATE \$500,000.00 FROM THE CALIFORNIA WILDLIFE, COASTAL AND PARK LAND CONSERVATION FUND OF 1988 (P-70), SECTION 5907 (c)(1)(A)-1, AS SPECIFICALLY AUTHORIZED FOR WETLAND PROJECTS IN THE SAN FRANCISCO BAY; AND AUTHORIZE STAFF AND THE DEPARTMENT OF FISH AND GAME TO PROCEED SUBSTANTIALLY AS PLANNED.

MOTION CARRIED.

15. Mud Slough Wildlife Area, Merced County \$1,200,000.00

Mr. Schmidt report that this proposal was to consider the acquisition of 395± acres of land, for the restoration, development and preservation of historic wetlands. The property lies approximately three miles east of the City of Los Banos, fronting on the north side of State Hwy 152, its main access. Mr. Sarro described the project. The subject is located within the Grassland Resource Conservation District; in the corridor between the north and south grassland areas. This corridor is a mile-wide strip that was converted to leveled agricultural fields between 1967 and 1980. Previously it had consisted of a mixture of uplands, seasonal wetlands and slough channels.

Current land use of the subject property is irrigated agriculture with some marsh, and a scattering of valley sink scrub uplands. Crops grown on the property include hay, cotton, melons, sugar beets and alfalfa. There are no substantial improvements on the parcel other than its water delivery systems.

It is the Department's plan to restore the property to its previous wetland nature. Ducks Unlimited (DU) has agreed to conduct, contract and pay for this restoration through its VALLEY CARE PROGRAM. VALLEY CARE is a comprehensive plan to expand wetland protection and restoration efforts on public and private lands throughout the Central Valley. Through this program, DU is committed to finding ways to protect and restore wetlands on private lands, while continuing to add to the public wetlands base, enhancing agricultural lands for a diversity of wildlife, providing education to a broad range of the public and establishing new partnerships among the agricultural community, business, public agencies and environmental/conservation organizations.

Restoration money for VALLEY CARE will be provided by matching public and private funds to fulfill a challenge grant request from the National Fish and Wildlife Foundation. By designating the \$1.2 million acquisition dollars as the Wildlife Conservation Board's (WCB) contribution to the challenge grant, Ducks Unlimited will receive matching funds to accomplish the restoration of the Mud Slough Wildlife Area and other private land restoration projects. This matching contribution by the state brings WCB into the program as a full partner and will receive full recognition on all VALLEY CARE projects including habitat restoration and educational components.

At the time of this writing, Ducks Unlimited's plans and development schedule for this project were not firmly established. However, it is anticipated that development will include open water slough channels, valley freshwater marsh, areas for great valley willow scrub, valley sink scrub habitat and other areas for wildlife food crops. Restoration, which is anticipated to begin in early spring of 1995, will be done according to plans approved by the Department of Fish and Game. No reintroduction of listed or other species is planned at this time.

The subject property is potentially threatened with conversion to urban residential development. In 1990, a draft EIR was completed for the property for annexation to the City of Los Banos. A slow local economy and a lawsuit over the adequacy of the draft EIR put the project on hold. Recently there has been renewed development pressure and there is potential that this project will again be brought forward. In 1994, the City of Los Banos is revising its General Plan and considering annexation and development of this site and others located within the "corridor" area. If the property is not protected soon, this important area could be lost to development as early as 1995.

Water for the property is supplied via a deeded water right from the San Luis Canal Company. When it is returned to a wetland condition, water will be also available from the Grassland Water District. The State will retain all existing water rights and their delivery systems.

The owner will retain the first right of refusal to lease the property in the event the Department chooses to lease it out as an interim management measure. The number of acres and the length of time of the lease will be adjusted to accommodate the Department's and DU's development schedule and will be based on fair market value of the area covered by the lease.

Upon completion of the restoration, it may be appropriate to offer the property for sale, with the developed habitat and wildlife values protected via a conservation easement. Should the Department decide not to sell the property, its management will be under the Department's current Los Banos Wildlife Area.

The owner has agreed to sell at the approved appraised fair market value of \$1,185,000. It is estimated that an additional \$15,000 will be needed for acquisition costs which include escrow, title, and Department of General Services review costs. The acquisition is exempt from CEQA under Section 15313 as an acquisition of land for wildlife conservation purposes.

Mr. Jack Payne, Director of the Private Lands Conservation effort for Ducks Unlimited for the Western United States, which includes the VALLEY CARE PROGRAM in California, stated this was a very innovative program that, in effect, doubles the dollars that are available for the conservation efforts by allowing DU to use this acquisition money as DU's match to a National Fish and Wildlife Foundation grant for the Valley Care Program. DU can restore the wetlands on this piece of property, but also partner with the Wildlife Conservation Board on numerous other public and private wetland restoration projects. As many of you know, public acquisitions and habitat restoration are important but restoration on private lands, which is also a part of the Valley Care Program, is very valuable to complement the public programs. By letting this program go through, the Wildlife Conservation Board becomes a full and equal partner in this effort. He also acknowledged and thanked the leadership and the creative thinking of the Board staff to help put this innovative program together which provides many more

Minutes of Meeting, November 10, 1994  
Wildlife Conservation Board

opportunities for scarce state dollars.

Mr. Schmidt reported that this property was on the market, so acquisition at this time was important if we are to proceed at all.

Staff recommended that the Board approve the acquisition of this property, as proposed; allocate a total of \$1,200,000.00, \$86,172.82 from the California Wildlife, Coastal and Park Land Conservation Fund (P-70), Section 5907 (c)(1)(B), and \$1,113,827.18 from the Habitat Conservation Fund (P-117), to cover the purchase price and related costs; and authorize staff and the Department of Fish and Game to proceed substantially as planned.

Letters of support were received from the Mountain Lion Foundation, California Waterfowl Association, Senator Dan McCorquodale and Senator Mike Thompson. The Governor's Office received 54 letters of support which were forwarded to the Board for responses. Mr. Ed Smith, representing the Department of Fish and Game, and Mr. Dave Widell, from the Grassland Water District, were both present and willing to answer any questions.

Mr. Boren asked if there were any questions or concerns, and since there was no further discussion, the following action was taken.

**IT WAS MOVED BY MR. STANCELL THAT THE WILDLIFE CONSERVATION BOARD APPROVE THE ACQUISITION OF THE MUD SLOUGH WILDLIFE AREA, MERCED COUNTY, AS PROPOSED; ALLOCATE A TOTAL OF \$1,200,000.00, \$86,172.82 FROM THE CALIFORNIA WILDLIFE, COASTAL AND PARK LAND CONSERVATION FUND (P-70), SECTION 5907 (c)(1)(B), AND \$1,113,827.18 FROM THE HABITAT CONSERVATION FUND (P-117), TO COVER THE PURCHASE PRICE AND RELATED COSTS; AND AUTHORIZE STAFF AND THE DEPARTMENT OF FISH AND GAME TO PROCEED SUBSTANTIALLY AS PLANNED.**

**MOTION CARRIED.**



16. Mission Creek Ecological Reserve, San Bernardino County \$265,000.00

Mr. Schmidt reported that this proposal was to consider the acquisition of a total of 2,229.4± acres of land in four noncontiguous parcels along Mission Creek in the mountainous area north of Palm Springs and west of the community of Morongo Valley. The properties are located northwest of the junction of Interstate 10 and Highway 62. Mr. Howard Dick explained the proposed project.

Mission Creek's 10-12 miles of creekbed originates just inside the San Bernardino Forest boundary line, in San Bernardino County. It flows in a southwest direction toward the northern end of the Coachella Valley, bisecting the Colorado River Aqueduct and Highway 62 before connecting with the Whitewater River about two miles north of Palm Springs. In this short distance, the creekbed spans a huge elevation gradient (over 7,000 feet) linking the montane transverse ranges to the Sonoran Desert. As a result, there is a high diversity of habitat types found in a relatively small area. Threatened or endangered species (Federal or State) include the Coachella Valley fringe-toed lizard, Least Bell's vireo, and Peregrine falcon. Candidate species in the area include the San Diego horned lizard and California gnatcatcher. The list of sensitive species along Mission Creek are the gray vireo, willow flycatcher, golden eagle, Le Conte's thrasher, yellow warbler, vermilion flycatcher, summer tanager, desert bighorn sheep, Coachella round-tailed squirrel, desert tortoise, Coachella Valley Jerusalem cricket, Coachella giant sand-trader cricket, triple ribbed milk vetch, Coachella Valley milk vetch, Robison's monardella and the little San Bernardino mountain gila.

The subject parcels are located along the upper reaches of the creek between the 3,200 - 5,800 foot elevation, with the creek running through all four parcels. The Pacific Crest Trail, located along the creek, is the only developed access to these properties. A little more than fifty percent of the creek corridor is already under public ownership by the Bureau of Land Management (BLM) and U.S. Forest Service. DFG recommends having the lands along Mission Creek protected from developments, such as the one proposed on the lower reaches of Mission Creek, and has highly recommended the purchase of these parcels. The purchase would also assure maintenance of the integrity of the wildlife habitat along the creek and allow for compatible public uses.

According to the Department of Fish and Game, management of Mission Creek will focus on the protection of the natural communities supporting rare and endangered species and providing recreational opportunities to hunters, hikers, and other appropriate users. DFG anticipates that active staff management will not be needed and plans to develop a coordinated management agreement between BLM and the U.S. Forest Service.

The approved appraised value of the properties involved in this acquisition proposal totals \$446,000. However, the owners have agreed to sell the property for \$256,000, thereby providing a donation of \$190,000. In addition to the acquisition cost, it is estimated that



Minutes of Meeting, November 10, 1994  
Wildlife Conservation Board

approximately \$9,000 will be needed to cover costs of escrow, title insurance, appraisal and the Department of General Services review costs. The project is exempt from CEQA under Class 13 of Categorical Exemptions, as an acquisition for wildlife conservation purposes.

Mr. Schmidt noted the Board had been working on this project for some time, with the assistance of The Nature Conservancy, Mr. Scott Ferguson, who negotiated a good deal including a \$190,000 donation.

A letter of support was received from the Mountain Lion Foundation. Mr. John Anderson, Wildlife Management Supervisor from the Department of Fish and Game's Long Beach Office, was present to address any questions the Board might have.

Staff recommended that the Board approve the acquisition as proposed; allocate \$265,000.00 from the Wildlife and Natural Areas Conservation Fund (P-70), Section 2720 (a), to cover the purchase price and related costs; and authorize staff and the Department of Fish and Game to proceed substantially as planned.

Mr. Boren asked if there were any questions or concerns, and since there was no further discussion, the following action was taken.

IT WAS MOVED BY MR. GIBBONS THAT THE WILDLIFE CONSERVATION BOARD APPROVE THE ACQUISITION OF THE MISSION CREEK ECOLOGICAL RESERVE, SAN BERNARDINO COUNTY, AS PROPOSED; ALLOCATE \$265,000.00 FROM THE WILDLIFE AND NATURAL AREAS CONSERVATION FUND (P-70), SECTION 2720 (a), TO COVER THE PURCHASE PRICE AND RELATED COSTS; AND AUTHORIZE STAFF AND THE DEPARTMENT OF FISH AND GAME TO PROCEED SUBSTANTIALLY AS PLANNED.

MOTION CARRIED.

17. Santa Margarita River Ecological Reserve, Expansion #1,  
Riverside County

\$320,000.00

Mr. Schmidt reported that this proposed acquisition was calendared for Board consideration on August 11, 1994, but was withdrawn at the recommendation of staff. The transaction involved a purchase of property by The Nature Conservancy (TNC) from a private landowner, followed by a sale of a part of the property to the State by TNC.

Several letters were received from local individuals the night before the meeting

containing allegations of potential conflict of interest on the part of the private property owner in connection with the transaction. The allegations also intimated potential wrongdoing on the part of TNC and the Wildlife Conservation Board by virtue of their involvement in the transaction. Mr. Michael Bowman, representing Assemblyman Ray Haynes, also appeared at the meeting and asked that the item be put over until the conflict of interest allegations could be investigated.

Staff has thoroughly investigated the facts related to the allegations and has prepared a report to be provided to the Board. The conclusions of the report are as follows:

1. Staff found no factual basis whatsoever to support a claim of conflict of interest on the part of the landowner.
2. Apart from the lack of any factual basis for a legal claim of conflict of interest, staff discovered no facts that even hint at wrongdoing of any kind on the part of the landowner in connection with this proposed transaction.
3. The allegations of possible wrongdoing on the part of TNC and the Board were apparently based on the premise that they were allowing the occurrence of the landowner's conflict of interest. Like the allegations against the landowner, staff found no factual basis to support these claims.

Mr. Sarro addressed the issue of why the item was withdrawn at the previous meeting, the results of his research, as well as presentation of the item.

Mr. Sarro reported that one of the two bases for potential conflict was that the landowner was a member of a committee formed to regulate the use of land through this corridor. The implication was that since the landowner was in a position to take official action in determining land use in the corridor, including that of his own property, he thus would have the ability to affect the value of the subject property. It was discovered, however, that the committee had not yet been formed and would have no regulatory authority within this watershed/corridor. The most the committee could do would be to make recommendations to those that have the regulatory authority. So, in this instance, there was no conflict. The second potential basis for conflict was that as a City Councilman for the City of Murrieta, the landowner would be bound to disclose his interest in his property to the council if his property were within two miles of the jurisdiction. However, this property lies four miles outside the jurisdiction and therefore does not come within the disclosure rule. Mr. Sarro noted that his report included legal opinions from the Murrieta City Attorney, Riverside County Counsel and the California Legislative Counsel's office, all concluding there was no conflict of interest based on the facts of this case.

Mr. Sarro's written report was provided to the Board members and was incorporated into the minutes. Mr. Sarro added that site selection of this property had been recommended

Minutes of Meeting, November 10, 1994  
Wildlife Conservation Board

since 1990 and in 1991 was placed on the Department of Fish and Game's priority list. The subject property was priority #2 on the list and priority #1 had already been purchased. This site priority was based on biology and on that basis was recommended by the Department of Fish and Game and was not influenced in any way by the landowner.

The item, therefore, was now being submitted to the Board for consideration.

This proposal was to consider the acquisition of 55± acres adjacent to the Santa Margarita River Ecological Reserve for the preservation of key south coastal riparian habitat and its associated, widely varied, species of wildlife. The existing Ecological Reserve is located on the south side of the river while this proposal will protect the adjoining north side property, thereby providing complete public ownership of the river in this reach. More specifically, the subject property is located on the south side of Camino Estribo, less than one mile from I-15, in the rapidly growing Temecula area.

The Santa Margarita River corridor extends approximately 27.2 miles from southwestern Riverside County, near the town of Temecula, through Camp Pendleton in northern San Diego County where it empties into the Pacific Ocean. The corridor is roughly 1/3 of a mile wide and encompasses approximately 6,000 acres.

The Santa Margarita River corridor is unique as it is one of the last remaining coastal streams in relatively pristine condition in southern California. Although there are two small dams close to the headwaters, most of the river is unregulated. The majority of the river corridor is in various public ownerships including the USMC Camp Pendleton, Fallbrook Utility District, San Diego State University and the Bureau of Land Management. The latter two ownerships are managed by San Diego State University as part of its Santa Margarita River Ecological Reserve. Less than five percent of the river corridor is in private ownership and is recommended for acquisition by the Department of Fish and Game. In fact, the subject property is among the highest priorities identified in the Department's Conceptual Area Acquisition Plan (CAP) prepared for this area.

The area within the CAP traverses the coastal mountains through a fairly remote region, characterized by coastal sage scrub and chaparral on the slopes and riparian vegetation in the canyon bottom. Due to its remoteness and because the river is one of the few nearly free-flowing rivers in southern California, it supports some of the least disturbed and largest stands of riparian habitat left in the southern part of the state.

The river corridor, encompassing both riparian and coastal sage scrub communities, provides habitat for a diverse ensemble of wildlife species, including two reptilian species of special concern, the San Diego horned lizard and the orange-throated whiptail. The California gnatcatcher, an avian species of special concern, is also present in addition to numerous other bird species. The total bird density and diversity on the Santa Margarita River is considered to be among the highest in southern California. Of additional



significance is that the area serves as a vital wildlife corridor for mountain lion and deer.

The Santa Margarita River provides critical habitat for several rare, endangered and sensitive species. Among these are the Stephens' kangaroo rat (state-threatened/federal-endangered), the Belding's savannah sparrow (state-endangered), and the bank swallow (state-threatened). The river also supports approximately 1/4 of the remaining breeding population of Least Bell's vireo, a federal and state listed endangered species. Endangered plant species include thread-leaved brodiaea, coastal dunes milk-vetch, California orcutt grass, Parish's meadowfoam and Nevin's mahonia. The river bottom supports extremely dense and undisturbed stands of southern willow scrub and areas of coastal brackish marsh, both rare communities.

The river corridor is critical to mountain lion migration as it links areas in the southern Santa Ana Mountains (Cleveland National Forest, Camp Pendleton, Santa Rosa Plateau) with areas further southeast (Agua Tibia Wilderness of the Cleveland National Forest). The river also leads to the only passable undercrossing of Interstate 15, a formidable barrier to wildlife movements in the area.

The Santa Margarita River is best suited for passive recreational uses, such as hiking, bird watching and photography, due to the presence of several sensitive and protected species. The area is also ideal for scientific research, as it is located within easy driving time of ten major colleges and universities. San Diego State University currently owns and manages over 2,500 acres in the upper Santa Margarita River and has indicated willingness to assume responsibility for management of the subject property under a cooperative agreement with the Department of Fish and Game. Cost to the Department would, therefore, be minimal. The acquisition is exempt from CEQA as an acquisition of land for wildlife conservation purposes.

TNC has assumed a leading role in the project evaluation and planning, and in the coordination of the various public agencies connected with the river corridor. TNC has negotiated options to acquire a number of the privately held ownerships within the CAP, and has exercised its option on the subject property. TNC proposes to sell a portion of it to the State for inclusion in the publicly owned and managed holdings. The portion retained by TNC will also be managed as part of the overall ecological reserve. The approved appraised fair market value of the subject property is \$312,000.00 and TNC proposes to convey the property to the State for that sum. In addition to the purchase price, it is estimated that an allocation of \$8,000 would be required to cover the costs of escrow, General Services review and related acquisition expenses.

Staff recommended that the Board approve this acquisition as proposed; allocate \$320,000.00 from the California Wildlife, Coastal and Park Land Conservation Fund of 1988 (P-70), Section 2720 (a), to cover the purchase price and related costs; and authorize staff and the Department of Fish and Game to proceed substantially as planned.

Minutes of Meeting, November 10, 1994  
Wildlife Conservation Board

Mr. Schmidt read for the record the list of support letters received: Mountain Lion Foundation, San Diego County Board of Supervisors, Riverside County Regional Park and Open Space District, Fallbrook Land Conservancy, Endangered Habitat League, Buena Vista Audubon Society, two Riverside County Supervisors, San Diego State University, San Diego County Parks and Recreation Department, Palomar Audubon Society, Citizens for Historic Murrieta and the Murrieta Greenway, as well as 20 letters from individuals. A letter was received from Senator Haynes requesting the item be delayed again with respect to the fair market value, appropriation of public monies and a state-supervised appraisal be performed.

Mr. John Bell, resides in Murrieta and works in Temecula, reported that he was one of the parties that wrote at the last minute at the August meeting bringing up questions regarding the potential conflict of interest and appreciated the accuracy of the WCB staff report indicating the potential conflicts of interest and that the decision be delayed until the allegations could be looked into. One of the concerns raised was whether the Councilman's property falls within a sphere of influence within the City in which he (Mr. Walsh) is a Councilman. Mr. Sarro has indicated that the property was located outside the Councilman's jurisdiction. Another question was raised with respect to a policy committee on a comprehensive watershed management plan and Mr. Sarro also addressed that. Mr. Bell's main concern was the fair market value of the property and that the State might be paying too much. He recommended an appraisal and that the appraiser visit the site. In summary, his concerns were about the misappropriation of funds and objecting to the price the State is paying, not that the property was being acquired for public purposes.

Ms. Sharon Bolton, Executive Director of the California Land Institute based in Temecula, was the next speaker. The California Land Institute is a private, for-profit organization, with the goal of serving personal property rights, to research issues and report when membership requests it. She stated that she has been a resident of this valley for the past 14 years and has served as vice-President of Bedford Properties, in charge of their Land Sales Division, selling over 16,000 acres, primarily land projects which included projects such as the Santa Rosa Plateau. Ms. Bolton's concerns were about the market value of the property being retained by The Nature Conservancy in relationship to the portion being proposed for acquisition by the Wildlife Conservation Board. She asked the Board to review the funding amount and obtain an appraisal if one had not been completed. In summary, she felt the price was too high.

Both Mr. Bell and Ms. Bolton felt the value of the portion of the property being acquired by the State was set too high in relation to the portion that was being retained by the owner, The Nature Conservancy.

Mr. Schmidt reported that the information they provided was again obtained at the last minute, just prior to the start of this meeting, and that staff had not had a chance to evaluate any of it. However, an appraisal has been completed, which was reviewed and



approved by the State Department of General Services. The appraisal was prepared by an independent private appraiser, not by staff, and staff was comfortable with the appraised values. Mr. Schmidt recommended proceeding at this time.

Mr. Scott Ferguson, representing The Nature Conservancy, commented for the record regarding some allegations made about the Conservancy. Mr. Ferguson noted that Jim Sarro shared the written comments with him that the opponents presented prior to the meeting. The items suggested by Ms. Bolton that The Nature Conservancy, a so called nonprofit agency, might be making money on this transaction and the possibility that The Nature Conservancy might have paid the landowner, Mr. Walsh, an option consideration in addition to the purchase price, which makes the transaction above the fair market value. Mr. Ferguson noted that it was important to be in the record on both issues that The Nature Conservancy was not making money on this transaction, that they were in fact losing money in terms of closing costs and in terms of holding onto the \$138,000 piece of property. The reason for holding onto that piece of property was that the Santa Margarita River property is a river of great interest, as one of the last free flowing rivers in all of Southern California and TNC liked to have a place to take donors and other people to show them the attractiveness of the river. TNC is "known" to make very high option payments and in this case made a \$100.00 option payment to Mr. Walsh which was applicable to the purchase price.

Mr. Mark Palmer, Mountain Lion Foundation, wanted to put in a good word for the Santa Margarita River which is the last free flowing rivers in Southern California, and is extremely important for a wildlife standpoint. In addition, having the presence of The Nature Conservancy, which has an extensive field program for the general public; saving money for the State of California since the State of California/DFG/WCB doesn't have to do that kind of interpretative work that The Nature Conservancy does so well. Mr. Palmer strongly encouraged approval of this acquisition.

Mr. Boren asked if there were any questions or concerns, and since there was no further discussion, the following action was taken.

IT WAS MOVED BY MR. GIBBONS THAT THE WILDLIFE CONSERVATION BOARD APPROVE THE ACQUISITION OF THE SANTA MARGARITA RIVER ECOLOGICAL RESERVE, EXPANSION #1, RIVERSIDE COUNTY, AS PROPOSED; ALLOCATE \$320,000.00 FROM THE CALIFORNIA WILDLIFE, COASTAL AND PARK LAND CONSERVATION FUND OF 1988 (P-70), SECTION 2720 (a), TO COVER THE PURCHASE PRICE AND RELATED COSTS; AND AUTHORIZE STAFF AND THE DEPARTMENT OF FISH AND GAME TO PROCEED SUBSTANTIALLY AS PLANNED.

MOTION CARRIED.

18. Baldwin Lake Ecological Reserve, Expansion #2,  
San Bernardino County \$155,000.00

In 1986 and 1990, the Board approved, and staff acquired, two parcels totalling 140± acres along the north shore of Baldwin Lake, in the Big Bear Basin, 40± miles east of San Bernardino. This property, now known as the Baldwin Lake Ecological Reserve, contains about 96 acres on the lake side of North Shore Drive and about 44 acres on the uphill side of the road. Mr. Schmidt indicated this proposal was for the expansion of this reserve by acquiring the last privately owned inholding, consisting of 16± acres with road frontage, on the uphill side of the road. The parcel is surrounded entirely by the existing reserve and by San Bernardino National Forest lands. Mr. Jim Sarro explained the proposed project and its location.

Baldwin Lake is a unique botanical area containing one of the highest concentrations of rare plants in the continental United States. Fifteen species of rare or sensitive plants thrive here. Many of these endemic species are restricted to two important and fragile rare plant communities found at Baldwin Lake: the Pebble Plain and Vernal Wet Meadow communities. The site is also significant for its wintering population of the Federally-listed endangered bald eagle.

The Pebble Plain community forms open, treeless pockets amidst surrounding Jeffrey Pine forests, juniper woodlands and sagebrush scrub. Also referred to as "pavement plains", these communities support a relict flora of alpine-like plants which survive in the clay soils. The habitat is dominated by Southern mountain buckwheat and the Bear Valley sandwort, both candidates for federal listing. Seven rare plant species are found in this community, all of which are endemic to the San Bernardino Mountains and several of which are found only in the Big Bear Basin.

The Vernal Wet Meadow community occurs in low-lying areas which collect rain or snow and develop vernal wet conditions. These wet meadows are typically found where clay soils intercept a drainage or seep, and are usually associated with pebble plains. The wet meadow habitat supports four rare plants, including the bird-footed checkerbloom and slender-petaled mustard, both Federally and State-listed endangered species. In addition, vernal moist creeks and drainages support three additional species, the eye-strain monkeyflower, purple monkeyflower and San Bernardino Mt. owl's clover, all candidates for federal listing.

Baldwin Lake is listed in the 1988 Annual Report of Significant Natural Areas of California prepared by the Lands and Natural Areas Project (LNAP). The Pebble Plain natural community is unique to the San Bernardino Mountains as are many of the species found on the pebble plains and associated wet meadows. Indeed, of the fifteen rare plants known at Baldwin Lake, nine are endemic to the San Bernardino Mountains and four are found only in the Big Bear Basin. Added to the significance of the site as an important botanical area is the presence of the endangered bald eagle. The wintering

population at Baldwin and Big Bear Lakes is thought to be the largest in southern California.

The 16± acre property now under consideration is the last remaining privately-owned property in the vicinity of the ecological reserve. It is adjacent to and upland of the reserve and is capable of development to as many as three homesites. The Department considers the site a significant expansion of the reserve in that it is in the immediate watershed, and its development could very well degrade the pebble plain habitat. It is also a prime roosting site for overwintering bald eagles. And finally, the property completes the connection between the ecological reserve and the adjacent San Bernardino National Forest, thus providing the potential for improved public access to the forest with minimal impact on the pebble plain habitat.

The owner of the parcel has agreed to sell it to the State for the approved appraised fair market value of \$150,000. Related sales expenses and administrative costs are estimated to be an additional \$5,000. Management of the property would be carried out by the Department through a proposed joint management agreement with the Forest Service as part of the existing reserve. The acquisition is exempt from CEQA as an acquisition of land for wildlife habitat and open space conservation purposes.

Staff recommended that the Board approve this acquisition of approximately 16 acres as proposed; allocate \$155,000.00 from the Habitat Conservation Fund (P-117), Section 2720 (a), to cover the purchase price and related costs; and authorize staff and the Department of Fish and Game to proceed substantially as planned.

Mr. Schmidt reported that a letter of support had been received from the Mountain Lion Foundation and that Mr. John Anderson, Department of Fish and Game, was present should there be any questions.

Mr. Boren asked if there were any questions or concerns, and since there was no further discussion, the following action was taken.

IT WAS MOVED BY MR. STANCELL THAT THE WILDLIFE CONSERVATION BOARD APPROVE THE ACQUISITION OF THE BALDWIN LAKE ECOLOGICAL RESERVE, EXPANSION #2, SAN BERNARDINO COUNTY, AS PROPOSED; ALLOCATE \$155,000.00 FROM THE HABITAT CONSERVATION FUND (P-117), SECTION 2720 (a), TO COVER THE PURCHASE PRICE AND RELATED COSTS; AND AUTHORIZE STAFF AND THE DEPARTMENT OF FISH AND GAME TO PROCEED SUBSTANTIALLY AS PLANNED.

MOTION CARRIED.



19. King Clone Ecological Reserve, San Bernardino County \$149,500.00

Mr. Schmidt indicated that this proposal was to consider the acquisition of two separate ownerships of  $78.1 \pm$  acres and  $59.3 \pm$  acres, or a total of  $137.4 \pm$  acres of Mojave Creosote Bush Scrub, and to fund partial fencing of the area. The parcels are located in the Johnson Valley in a largely undeveloped, sparsely populated area about 12 miles easterly of the community of Lucerne Valley. Specifically, the property is located on Bessemer Mine Road, about one mile north of State Route 247. Ms. Georgia Lipphardt described the location of the project.

In 1987, using income tax check-off donations, WCB staff, acting on behalf of the Department of Fish and Game, purchased 372 acres of Mojave Creosote Bush adjacent to the proposed acquisition area. The DFG lands have since been designated as an Ecological Reserve to protect ancient creosote rings found on the land. The oldest ring, called the King Clone, is estimated to be 11,700 years old. These proposed acquisitions are located in the center of the reserve and will provide further protection for the King Clone, as well as a number of other old creosote rings located on the subject parcels.

The Bureau of Land Management (BLM) has developed a Creosote Ring Preserve on federal lands which adjoin the State's reserve. In addition, the State Lands Commission owns properties, located both north and southeast of the reserve, which were acquired in lieu of school lands the State was to receive at statehood from the federal government. Currently these lands are unimproved and no plans to either lease or sell the properties are pending.

Creosote bush is a widespread perennial species characteristic of the Mojave Desert. However, due to the discovery of the ancient King Clone, this area of special concern was proposed as a Creosote Rings Reserve by Dr. Frank C. Vasek, Professor of Botany at the University of California, Riverside. At 11,700 years old, the King Clone would be the oldest known living plant complex. Creosote rings are formed from vegetative reproduction, or cloning, of single "parent" plants. As the creosote shoots grow outward, the interior portion of the plant may die. A creosote "ring" is thus formed. Continued outward vegetative growth of this creosote, with loss of the interior portion of the plant, will continue to increase the diameter of the ring. The uniqueness, high research value, and susceptibility to damage from off-road vehicles and development are the principle reasons for acquiring and protecting these plants.

In addition to protection for the old creosote rings, the state and federally listed threatened desert tortoise which exists in low densities on the subject property could also benefit from the proposed acquisition. Many species of reptiles, snakes, birds, and rodents are also represented in this creosote scrub habitat.

Located approximately 2 miles northeast of the subject property is a popular recreational area called Soggy Dry Lake, which receives approximately 40,000 visitor use days per

year. Recreation activities at this area include camping, motorized trail riding and racing. Unfortunately, Bessemer Mine Road, a dirt road that bisects the subject parcels also provides access to Soggy Dry Lake creating a major threat to the existing reserve, as well as the subject parcels, from off-road vehicles and motorcycles that utilize the road. Some off-road use has already occurred, leaving tracks and trash within the DFG reserve. It is hoped that fencing along the road will deter these motorized vehicles from entering the reserve. Another threat to the area is the possibility of home construction. Two homes have already been built on similar land bordering the subject parcels to the northwest.

Management of the reserve will include fencing, posting and patrol by Department of Fish and Game as well as BLM enforcement officers. Plans for a monitoring program and a joint education, research and protection program with BLM and the University of California, Riverside, are also proposed by the Department.

The landowners have agreed to sell the parcels at the approved fair market value of \$75,000 for the 78.1± acre parcel and \$59,500 for the 59.3± acre parcel. Fencing costs are estimated to be \$5,000 and processing costs are estimated to be \$10,000, which includes the appraisal, title and escrow fees and Department of General Services review costs. The acquisition is exempt from CEQA under Class 13 of Categorical Exemptions as an acquisition for wildlife conservation purposes.

Mr. Schmidt reported that a letter of support had been received from the Mountain Lion Foundation and that Mr. John Anderson, Department of Fish and Game, was present should there be any questions.

Staff recommended that the Board approve the acquisition of this property as proposed; allocate a total of \$149,500.00, \$127,697.30 from the Habitat Conservation Fund/P-117, P-70, Section 2720 (c) and 2786 (b) and \$21,802.70 from the Wildlife Restoration Fund; and authorize staff and the Department of Fish and Game to proceed substantially as planned.



Mr. Boren asked if there were any questions or concerns, and since there was no further discussion, the following action was taken.

IT WAS MOVED BY MR. GIBBONS THAT THE WILDLIFE CONSERVATION BOARD APPROVE THE ACQUISITION OF THE KING CLONE ECOLOGICAL RESERVE, SAN BERNARDINO COUNTY, AS PROPOSED; ALLOCATE A TOTAL OF \$149,500.00, \$127,697.30 FROM THE HABITAT CONSERVATION FUND/P-117 [P-70, SECTION 2720 (c) AND 2786 (b)] AND \$21,802.70 FROM THE WILDLIFE RESTORATION FUND; AND AUTHORIZE STAFF AND THE DEPARTMENT OF FISH AND GAME TO PROCEED SUBSTANTIALLY AS PLANNED.

MOTION CARRIED.

20. Wetland Conservation Easement Program (Department of Fish and Game) - Holmestead 2, Yuba County \$171,000.00

Mr. Schmidt reported this was a Department of Fish and Game proposal which is part of the Department's ongoing wetland conservation easement program. Mr. Sarro explained the project.

In the fall of 1991, the Department of Fish and Game (DFG) initiated a program of purchasing permanent conservation easements, which contain specific private management requirements on Central Valley wetlands. The program is intended to ensure the preservation and enhancement of existing and restored marshes critical to the welfare of waterfowl wintering in California with a long-term goal of placing at least 75,000 acres of wetland habitat under permanent easements.

Guided in part by the Implementation Plan formulated by the Central Valley Habitat Joint Venture, the Department selects parcels qualifying for this program from among a host of properties offered by their owners. The easement purchase price is derived from a formal appraisal, as approved by the Department of General Services. Due to the continuing operation and management requirements being placed on the owners, the easement values, depending on the agricultural potential of the property have ranged between 20 percent and 70 percent of fee value. Of course, the benefit to the State is the protection of wetland habitat in perpetuity with future operation and maintenance costs being absorbed by the underlying fee owners.

The terms and conditions of the easement agreement permit full and exclusive use of the

property by the landowner except those uses which would result in the loss of wetland habitat or the degradation of the property's waterfowl habitat values. In addition, the DFG, in cooperation with the landowner, has developed a marsh management plan for each property to be encumbered by the easement. The plan is intended to assure the development and maintenance of high quality waterfowl habitat throughout the property with each participant being responsible, at their cost, for the maintenance and water supply for their property. Although the program is aimed primarily at preserving natural marsh habitat, some portions of the property may be devoted to unharvested grain crops or "food plots".

The term of the easement, which does not provide for public access, extends in perpetuity and the easement runs with the land regardless of changes in ownership. Should waterfowl hunting be prohibited by State or Federal mandate for a period of three consecutive years, the landowner may initiate a process which could result in the termination of the easement and reimbursement of the State's costs of purchasing the easement. Additionally, should the grantor desire to sell the encumbered property, the State has reserved the first right of refusal to buy at fair market value.

Under the provisions of this program, the DFG has identified a number of areas for acquisition consideration. WCB staff has been conducting the negotiations for this program and is presenting the following proposal for Board consideration.

#### Holmestead 2, Yuba County

Consistent with the above described program, this proposal is to acquire a conservation easement over  $124.9 \pm$  acres of land consisting of recently developed permanent and seasonal wetlands, together with minor areas of riparian habitat. The land is located in Yuba County, lying on the east side and adjacent to Raminez Road, a county road that provides the property's access ( $15 \pm$  miles north of Marysville). The State's Honcut Creek Wildlife Area is located  $4 \pm$  miles northwest of the subject. Prior to development, the property was used for cattle grazing. Presently it has been developed into and is used as a private duck club. The proposed marsh management plan eliminates all potential commercial farming and other commercial agricultural uses and provides that the majority of the property be maintained in permanent and seasonal wetlands.

The owner has agreed to sell at the fair market value of \$164,800, as approved by the Department of General Services. It is estimated that an additional \$6,200 will be needed for appraisal, escrow and Department of General Services review costs. The acquisition is exempt from CEQA under Class 13 of Categorical Exemptions as an acquisition for wildlife conservation purposes.

Staff recommended that the Board approve the proposed conservation easement acquisition as proposed; allocate \$171,000.00 from the Habitat Conservation Fund/P-117, as made available to the Inland Wetlands Conservation Program; and authorize staff and

the Department of Fish and Game to proceed substantially as planned.

Mr. Schmidt reported that a letter of support was received from the Mountain Lion Foundation and that Mr. Glenn Rollins, Department of Fish and Game, was present should there be any questions.

Mr. Boren asked if there were any questions or concerns, and since there was no further discussion, the following action was taken.

IT WAS MOVED BY MR. STANCELL THAT THE WILDLIFE CONSERVATION BOARD APPROVE THE CONSERVATION EASEMENT ACQUISITION OF HOLMESTEAD 2, YUBA COUNTY, AS PROPOSED; ALLOCATE \$171,000.00 FROM THE HABITAT CONSERVATION FUND/P-117, AS MADE AVAILABLE TO THE INLAND WETLANDS CONSERVATION PROGRAM; AND AUTHORIZE STAFF AND THE DEPARTMENT OF FISH AND GAME TO PROCEED SUBSTANTIALLY AS PLANNED.

MOTION CARRIED.

#### OTHER BUSINESS

21. Closure of Vallejo Fishing Pier, Solano County

Mr. Schmidt informed the Board that staff was recommending to the Greater Vallejo Recreation District (GVRD) to close the Vallejo Fishing Pier reasonably soon as a safety measure. The Vallejo Fishing Pier, which has been a project of the Wildlife Conservation Board since the early to mid 60's, is the only coastal fishing pier in California that is owned by the Department of Fish and Game. Recently, several different studies have been done on the pier, partly as a result of pier restoration efforts and more recently to determine suitability for continued safe public use in view of delayed restoration because of lack of funds. The original recommendation was to keep maintenance vehicles off and the latest recommendation received, which was at WCB's request, from Caltrans engineering staff, questioned the safety of even allowing people on the pier. There is much concern over the possibility of high waves, heavy river flows, high winds or an earthquake taking place since the lateral support is gone and some of the pilings have completely deteriorated. Staff recommended to the GVRD that the pier be closed in two weeks to a month, giving consideration to the concessionaire who must close his business. Funding to complete restoration of the pier has been requested in the last two year's budget but has not been received. The Board has, in fact, approved the engineering plans which have now been put on hold.

Minutes of Meeting, November 10, 1994  
Wildlife Conservation Board

22. Based on the presentation at the beginning of the meeting, Mr. Schmidt indicated this was his thirteenth year as the Executive Director and that only because of good staff work that the Board can be recognized for their fine efforts. Projects such as those considered today don't just happen. They take a lot of good hard staff work which is very much appreciated. He thanked the staff and noted it was one of the finest staffs in any Department in the State of California.

There being no further business to consider, the meeting was adjourned at 11:10 a.m. by Chairperson Boren.

Respectfully submitted,

W. John Schmidt  
Executive Director

Attachments



## PROGRAM STATEMENT

At the close of the meeting on November 10, 1994, the amount allocated to projects since the Wildlife Conservation Board's inception in 1947 totaled \$345,167,753.24. This total includes funds reimbursed by the Federal Government under the Accelerated Public Works Program completed in 1966, the Land and Water Conservation Fund Program, the Anadromous Fish Act Program, the Pittman-Robertson Program, and the Estuarine Sanctuary Program.

The statement includes projects completed under the 1964 State Beach, Park, Recreational and Historical Facilities Bond Act, the 1970 Recreation and Fish and Wildlife Enhancement Bond Fund, the Bagley Conservation Fund, the State Beach, Park, Recreational and Historical Facilities Bond Act of 1974, the General Fund, the Energy Resources Fund, the Environmental License Plate Fund, the State, Urban and Coastal Park Bond Act of 1976, the 1984 Parklands Bond Act, the 1984 Fish and Wildlife Habitat Enhancement Bond Act, the California Wildlife Coastal and Park Land Conservation Act of 1988, Cigarette and Tobacco Products Surtax Fund of 1988, California Wildlife Protection Act of 1990 and the Wildlife Restoration Fund.

A. Fish Hatchery and Stocking Projects	\$ 16,006,219.06
B. Fish Habitat Preservation, Development & Improvement	20,468,085.78
1. Reservoir Construction or Improvement	\$ 3,063,613.05
2. Stream Clearance and Improvement	14,366,884.54
3. Stream Flow Maintenance Dams	467,219.86
4. Marine Habitat	646,619.07
5. Fish Screens, Ladders and Weir Projects	1,923,749.26
C. Fishing Access Projects	35,745,277.50
1. Coastal and Bay	\$ 2,973,174.92
2. River and Aqueduct Access	8,184,125.32
3. Lake and Reservoir Access	6,605,043.45
4. Piers	17,982,933.81
D. Game Farm Projects	146,894.49
E. Wildlife Habitat Acq., Development & Improvement	262,440,727.39
1. Wildlife Areas (General)	\$158,992,596.48
2. Miscellaneous Wildlife Habitat Dev.	4,522,361.60
3. Wildlife Areas/EcoReserves, (Threatened, Endangered or Unique Habitat)	97,228,522.31
4. Land Conservation Area	1,247.00
5. Inland Wetlands Conser. Grants & Easements	1,596,000.00
6. Riparian Habitat Conser. Grants & Easements	100,000.00
F. Hunting Access Projects	484,898.57
G. Miscellaneous Projects (including leases)	8,343,944.40
H. Special Project Allocations	870,090.42
I. Miscellaneous Public Access Projects	659,115.63
J. Sales and/or exchanges	<u>2,500.00</u>
Total Allocated to Projects	\$345,167,753.24



CALIFORNIA WILDLIFE PROTECTION ACT OF 1990

The following provides a brief analysis of the provisions of the "California Wildlife Protection Act of 1990" as it applies to the Wildlife Conservation Board (WCB). This analysis was prepared by WCB staff and was done without the input of legal advise so some interpretation may be subject to further legal clarification. This analysis does not address Chapter 10 (Mountain Lions) of this initiative.

- 1) FUND - The initiative creates the Habitat Conservation Fund (Sec. 2786) which is to be funded annually in the amount of \$30 M (Sec. 2796).
- 2) USE OF FUNDS - With a minor exception as noted in Sec. 2787 (a)(3), which permits the Department of Parks and Recreation to fund 50% local matching projects (\$2 M annually) for wildlife corridors, trails, nature interpretative programs, etc., funds are designated to be used for four main categories as follows:

- a) 2786 (a). The acquisition of habitat, including native oak woodlands, necessary to protect deer and mountain lions up to \$20 M (each 24 mos.) [Sec. 2791 (b) - 1/3 of total].
- b) 2786 (b)(c). The acquisition of habitat to protect rare, endangered, threatened, or fully protected species and acquisition of habitat to further implement the Proposition 70 Habitat Conservation Program beginning with Section 2721 which includes the following items:

To acquire, enhance, restore, or protect lands in California on which any of the following naturally exists:

- (a) A unique species or natural community, whose existence at a single location in California is the only known occurrence in the world of that particular species or natural community.
- (b) A species that occurs in only 20 or fewer locations in the world, at least one of which is in California.
- (c) A natural community that occurs in only 50 or fewer locations in the world, at least one of which is in California.
- (d) An assemblage of three or more highly rare species or natural communities, or any combination thereof, of which at least one of the species or natural communities is found only in 20 or fewer locations in the world.

Up to \$40 M (each 24 mos.) [Section 2791 (b) - 2/3 of total].

- c) 2786 (d). The acquisition, enhancement or restoration of wetlands. Up to \$6 M (each 24 mos.) [Section 2791 (c)].

- d) 2786 (e) & (f). The acquisition, enhancement or restoration of aquatic habitat for spawning and rearing anadromous salmonids and trout and riparian habitat. Up to \$6 M (each 24 mos.) [Section 2791 (d)].
- e) Furthermore, Section 2791 (e) requires 1/2 of the funds to be spent in northern California and 1/2 in southern California.
- f) 2791 (f) - \$2M to be used for an agency to be created by the Legislature. Assembly Bill 4325 (Baker, et al.) passed and becomes law January 1, 1991, creating the Inland Wetlands Conservation Program, to be located within WCB, to receive these funds.

NOTE: As can be readily noted above, in each 24 month period, 1/3 of the funds are to be used for Section 2786 (a) and 2/3 of the funds are to be used for Section 2786 (b) & (c). However, in addition \$6 M is to be used for Section 2786 (d) and \$6 M is to be used for Section 2786 (d) & (e). Since 1/3 and 2/3 equals the total amount (not including the additional \$12 M) this is an obvious contradiction in the initiative. One can only assume that the intent is to fund projects which meet the 1/3 - 2/3 split but also contain habitat elements qualifying them for one of the \$6M funds. In any event, the funding disbursement is certainly subject to interpretation.

- 3) FUNDED AGENCIES - Section 2787 specifies five agencies to be funded through this initiative, through the year 2020.
  - a. Department of Parks & Recreation \$4.5 M/year
  - b. State Coastal Conservancy \$4 M/year
  - c. Santa Monica Conservancy \$10 M/year (1st 5 years - then \$5M/year)
  - d. Tahoe Conservancy \$.5 M/year
  - e. Wildlife Conservation Board Balance of Fund (\$11+ M/year 1st 5 years - then \$21 M/year)
- 4) ACCOUNTABILITY - Each agency shall report yearly (by July 1) to WCB the amounts spent for each purpose for which funds were allocated.
  - a) Thereafter, WCB will be responsible to see that funds allocated to WCB (Sec. 2791) are spent so that the allocations noted in #2 above are fulfilled (using its funding allocation).

NOTE: As this is interpreted, WCB will be required to use those funds made available to them to cover short falls in the other agencies programs in meeting the required funding allocations (Section 2791). In other words, it is possible that all WCB funds could be used for a single type of acquisition if other agencies omitted certain types from their programs.

- 5) FUNDING MECHANISM - The fund shall be established at \$30 M/year as a direct Controller transfer (Section 2966) from the General Fund, less any amount placed in the fund from the:
- a) Unallocated account from the Cigarette & Tobacco Products Surtax Fund - a 10% direct Controllers transfer (Section 2795).
  - b) California Environmental License Plate Fund
  - c) Endangered and Rare Fish, Wildlife and Plant Species Conservation and Enhancement Account
  - d) Any other non-General Fund Accounts created by the legislature for purposes consistent with this act.
  - e) Any bonds authorized after July 1, 1990 which are consistent with the purposes of this act. (The legislature has interpreted this to not exclude bonds passed prior to July 1, 1990.)
  - f) Wildlife Restoration Fund

**M e m o r a n d u m**

To: W. John Schmidt  
Executive Director  
Wildlife Conservation Board

Date: October 21, 1994

From: Wildlife Conservation Board, 801 K Street, Suite 806, Sacramento, California 95814

Subject: Santa Margarita River Ecological Reserve, Expansion #1, Riverside County  
(Sale from Kevin Walsh to The Nature Conservancy, then to the Wildlife Conservation Board)

At your request, I have investigated certain allegations made and questions raised concerning the referenced transaction. Specifically, the evening prior to the Wildlife Conservation Board (WCB) meeting of August 11, 1994, staff received a number of facsimile transmissions from persons expressing concern that the seller, Kevin Walsh, appeared to be in a conflict of interest situation by virtue of his being a member of the Murrieta City Council and a member of the Policy Committee set up earlier this year to develop the Santa Margarita River Watershed Management Program (WMP). The general goal of the WMP is stated to be the development of recommendations for the use of the Santa Margarita River watershed in a manner that would best accommodate water supply and flood control needs, water quality, habitat preservation and resource-sensitive urban development.

I attempted to interview each of the parties who had sent letters to the Board expressing concern, including John C. Bell (community activist), Sharon Bolton (California Land Institute), David L. Bartlett (Murrieta-Temecula Republican Assembly), Trudy Thomas (Micco Enterprises, for California Taxpayers Network, Inc.) and Rod Hanway (Riverside County Chapter, Building Industry Association).

My initial contact was by phone with Ms. Trudy Thomas, who had signed her letter "Micco Enterprises for California Taxpayers Network, Inc.". Ms. Thomas was reluctant to discuss any facts that might support the statement in her letter that, "We believe information we have in hand bears witness to the fact that there is a major conflict of interest here ...", involving Mr. Walsh, The Nature Conservancy (TNC) and the State of California. Although Ms. Thomas indicated her letter was written at the instruction of and with the approval of the California Taxpayers Network, Inc. (CTNI), she also noted that the information she had in hand was all provided to her by John Bell and Sharon Bolton. When I asked for specific facts she had in hand, she said she was not free to divulge them, but that she presumed I could obtain them from Mr. Bell or Ms. Bolton.

I spoke by phone with Mr. Rod Hanway of the Riverside County Chapter of BIA on September 15, 1994. Mr. Hanway said his letter was written only to alert WCB staff that Mr. Walsh's position with the WMP presented the "appearance" of a conflict and that any questions in that regard should be resolved before WCB acted on the sale. He stated to me



W. John Schmidt  
October 21, 1994  
Page 2

that he had no facts that would actually support such a contention. He had been made aware of the "appearance" of a conflict by persons in the local area.

I contacted (by phone) Mr. John Bell, who indicates he is a "community activist" and newly elected chairman of the Landowner/Agriculture/Business Advisory Committee to the WMP. In a telephone conversation in late August, Mr. Bell indicated a willingness to coordinate a "group" personal interview for me with Mr. Bartlett, Ms. Thomas, Ms. Bolton and himself during the week of September 19, 1994. When I heard nothing further from Mr. Bell, I called him again early the week of September 12, in order to confirm an interview date. He did not return the call, but I was contacted instead on September 14 by Mr. Bartlett, who indicated that he, Ms. Bolton and Mr. Bell had nothing more to say to WCB; they would submit a complaint to the California Fair Political Practices Commission (FPPC) by the end of the week.

In gathering background information and facts concerning this matter, I also conferred with the following individuals:

Scott Ferguson, The Nature Conservancy  
Paul Romero, Riverside County Parks Director  
Bob Buster, Riverside County Supervisor (First District)  
Kevin Walsh, Landowner  
Jessie Myers, Staff to Riverside County Supervisor Kay Cenicerros (Third District)

#### ANALYSIS:

The analysis below is not intended to address the issue of conflict of interest in the legal sense. The legal analysis will follow later in this report and in the attachments. This analysis is directed, instead, at the appropriateness of the dealings on the part of the seller, TNC and the WCB.

From all that I was able to gather from the five parties who had written to WCB, the two possible bases for any concern about a "conflict of interest" on Mr. Walsh's part would be as follows:

- 1) Mr. Walsh holds a position on the Policy Committee of the WMP, a land-use regulatory authority with power to affect his (subject) property.

In fact, the WMP has not actually been formed, but is in the formative stages. A Memorandum of Understanding (MOU) has been circulated among the proposed Committee participants, namely the Counties of San Diego and Riverside, the Cities of Temecula and Murrieta, the Marine Corps Base, Camp Pendleton and "a water district

W. John Schmidt  
October 21, 1994  
Page 3

from the County of San Diego and the County of Riverside" (as yet unnamed in the MOU). As of this writing, the MOU is not yet signed by all proposed parties. However, even if the MOU were in effect, the Policy Committee would have no land-use or regulatory authority whatsoever. The most it could do is make recommendations to the responsible land-use and regulatory authorities, which would then act independently on those recommendations during their own respective deliberations on land-use or regulatory activities.

Furthermore, the only "action" by Mr. Walsh was as a member of the audience, attending in the absence of the City of Murrieta's actual representative, at a Policy Committee formation meeting. In that "action", he went on record as supporting the participation of the area's state and federal government representatives as non-voting members at Policy Committee meetings. Even if this were somehow construed to be a "vote" or an "action" on Mr. Walsh's part, it is simply not foreseeable that such an action would have any financial impact on Mr. Walsh's property.

- 2) Mr. Walsh is a councilman in the City of Murrieta, and failed to disclose his interest in the (subject) property during that City's deliberations on whether to sign the MOU.

The City of Murrieta, by consent calendar vote on July 5, 1994, approved the signature of the MOU on behalf of the City. First, it should be noted that the entry into the MOU by the City, as discussed above, would merely mean the City would be one of the entities in a committee that might eventually make recommendations to the ultimate land-use and regulatory authorities. The committee would have no land-use or regulatory authority. Secondly, the MOU is still not signed by all parties. It is not foreseeable that the City's being on the proposed committee would in any way benefit Mr. Walsh's financial interest (in the subject property). Moreover, even if a financial benefit were imaginable by virtue of the City's participation in the MOU, the subject property lies well outside City jurisdiction, approximately 4 miles beyond the city limits.

With regard to the activities of TNC and the WCB in this transaction, the background is worthy of note.

The Santa Margarita River corridor is one of the last remaining coastal streams in relatively pristine condition in Southern California. It is primarily (95%) held in various public ownerships and a significant portion is managed by San Diego State University as an ecological reserve. In 1990, the Department of Fish and Game (DFG) commenced an evaluation of the corridor for possible recommendation to WCB for public acquisition. In August, 1991, the DFG approved and gave high priority ranking to a Conceptual Area Acquisition Plan (CAP) for the corridor and recommended WCB purchase of the eleven remaining private ownerships. The Walsh property was ranked Priority 2 out of 11.

W. John Schmidt  
October 21, 1994  
Page 4

TNC assumed a lead role in the pre-acquisition of the private properties for eventual sale to public agencies. In 1992, WCB approved and funded the purchase of the Priority 1 site from TNC. TNC entered negotiations on the Walsh property in late 1990 or early 1991 and, in anticipation of a partial WCB buyout of its interest, closed escrow in August, 1994, shortly after the WCB meeting at which this proposal was tabled.

It is clear from the history and the paperwork supporting these transactions that the Walsh property was acted upon because of its strategic location and wildlife value, not because of some supposed influence of the owner or some hidden benefit to TNC. In fact, the property is being sold by Mr. Walsh for a good deal less than he paid when he bought it. Furthermore, TNC's sale to the WCB does not even enable TNC to recover its purchase price. TNC will retain a portion of the property and will sell the rest to WCB for \$138,000 less than TNC's purchase price. In addition, TNC reportedly has \$10,000 or so in acquisition costs that will not be recovered. Finally, with regard to the purchase price, the TNC appraisal, which served as the basis for its purchase from Walsh and sale to the State, was reviewed by WCB and was independently reviewed and approved by the State Department of General Services.

The point is this: My discussions with the letter writers, taken as a whole, indicated some concern about the propriety of the acquisition process, as well as the legality of the process. I was able to find no factual basis for any claim of wrongdoing by any of the parties. To the contrary, the acquisition, from its recommendation in 1991 by DFG through its proposed sale to WCB in 1994, was exactly in accord with DFG and WCB mandates as well as state law and administrative procedures. TNC's conduct of its negotiations with Mr. Walsh and with WCB seem to have been exactly what we seek when dealing with a nonprofit, preacquiring entity: they made it possible for WCB to purchase this high-priority site with minimum state expense and maximum public benefit.

With respect to claims of possible violations of conflict of interest laws by Mr. Walsh in connection with this transaction, I enclose the following copies of various legal opinions and comments written in response to these claims:

- 1) John R. Harper, Esq., Murrieta City Attorney, concluding no apparent conflict.
- 2) Gerald Blankenship, Esq., Deputy County Counsel for Riverside County, concluding no apparent conflict of interest.
- 3) Lori Ann Joseph, Esq., Deputy Legislative Counsel (responding to request of Senator Robert Presley), concluding no apparent conflict of interest.
- 4) Letters from Investigator W. Motmans, Jr., and Chief Investigator Alan Herndon of the Enforcement Division of the California Fair Political Practices Commission (FPPC), each concluding no basis for FPPC action on the complaints. (Note: I

W. John Schmidt  
October 21, 1994  
Page 5

spoke with Alan Herndon, who informed me their decision followed their review of a 16-page complaint and a 2 inch thick stack of exhibits. Even if taken as true, the documentation did not identify any prohibited conflicts of interest.)

I should add that TNC, likewise, obtained a legal review and opinion in this regard from Robert E. Leidigh, Esq., who formerly served as Senior Staff Counsel at the FPPC. Mr. Leidigh's opinion goes into a great deal more detail than those noted above, but it comes to the same conclusion.

#### CONCLUSIONS:

- 1) I found no facts to support a claim of any legally prohibited conflict of interest on the part of Mr. Walsh in connection with this transaction.
- 2) Apart from the absence of legally prohibited conduct, I found no facts indicating any wrongdoing whatsoever on the part of Mr. Walsh in connection with the sale.
- 3) Any intimation of possible wrongdoing on the part of TNC or WCB in this transaction would seem to be based on the assumption their activities aided the landowner in his alleged wrongdoing or conflict of interest. In view of the findings with respect to project background and the landowner's actions, any intimation of possible TNC or WCB wrongdoing disappears.



James V. Sarro  
Assistant Executive Director  
Chief Land Agent

Attachments

Jim\Sarrosar.#1



LAW OFFICES OF  
**HARPER & BURNS**  
A PARTNERSHIP INCLUDING A PROFESSIONAL CORPORATION  
433 S. GLASSSELL STREET  
ORANGE, CALIFORNIA 92666  
(714) 771-7728  
FAX (714) 744-3350

LOS ANGELES COUNTY OFFICE  
13200 CROSSROADS PARKWAY NORTH  
SUITE 350  
CITY OF INDUSTRY, CALIFORNIA 91746  
RIVERSIDE/SAN BERNARDINO COUNTIES  
(909) 674-0698

ALAN R. BURNS  
JOHN ROBERT HARPER\*  
OF COUNSEL  
P. MACKENZIE BROWN\*  
JUDIA A. CUSTIN\*  
WARREN R. DIVEN  
DANIEL S. HENTSCHKE  
ROBERT E. HESSELL  
MICHAEL S. MONTGOMERY\*  
\*A PROFESSIONAL CORPORATION

VIA FACSIMILE (909) 698-4509  
AND ORIGINAL U.S. MAIL

August 16, 1994

Councilmember Kevin Walsh  
CITY OF MURRIETA  
26442 Beckman Court  
Murrieta, California 92562

RE: Alleged Appearance of a Conflict of Interest  
(Santa Margarita River Watershed Planning Group)

Dear Mr. Walsh:

This opinion is rendered on your behalf with regard to any alleged appearance of a conflict of interest which you may have related to the sale of property which you own in the County of Riverside to the Nature Conservancy vis-a-vis your participation in the Santa Margarita River Watershed Planning Group.

As a threshold comment, as you are aware, Government Code Section 87100 precludes any public official from making, participating in or attempting to use his official position to influence any government decision in which he knows or has reason to know that he has a financial interest. Government Section 87103 defines in general the financial interest in the decision as being if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the official on any real property interest in excess of One Thousand Dollars (\$1,000).

The facts as I understand them in this case are as follows:

Over the past approximately three (3) years, you have attempted to negotiate the sale of certain property which you own and which is located in the County of Riverside, near Temecula, to The Nature Conservancy. Escrow on that property was opened approximately three months ago and

Councilmember Kevin Walsh  
City of Murrieta  
August 16, 1994  
Page 2

Attachment to WCB  
11/10/94 Minutes

was tentatively scheduled to close this week for a purchase price of Four Hundred and Fifty Thousand Dollars (\$450,000). It is my understanding that The Nature Conservancy intends to resell approximately two-thirds of that property to the State of California.

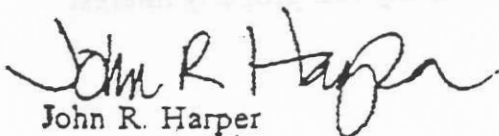
The Santa Margarita River Watershed Planning Group ("group") is an advisory body composed of representatives of various government entities in San Diego and Riverside Counties. The City of Murrieta is a member of the group and Councilmember Jerry Allen is a representative of the City. The group has no legislative or land use powers, but rather is an advisory body developing policies for recommendation to its respective constituencies.

On July 7, 1994, at the request of the group Chairperson and in the absence of Mr. Alan, you participated as the City of Murrieta's representative in group deliberations. It is my understanding that you participated in a vote to disallow voting participation by the State of California representatives and to form the Business and Property Owners Committee. There was no other decision in which you participated, nor was there any discussion impacting or relating to your property.

Based upon the foregoing, and applying the statutory tests of Sections 87100 and 87103, it would not appear that you have any conflict of interest as a consequence of serving on the group in that no decision in which you have participated has had any material financial effect on your property. Given the role of the group, even if you served as the regular representative, it is difficult to image any scenario in which there would be a financial affect on your property, particularly one which might be distinguished from impacts on the public in general. Finally, under the assumption that escrow is closed with The Nature Conservancy, the issue as to future participation and speculative conflicts of interest should be rendered moot. It should of course be noted that The Nature Conservancy will be considered a source of income for the next twelve (12) month period and you must consequently abstain from any participation related to The Nature Conservancy either as a Murrieta City Councilmember or through your participation in the group.

As you are aware, the Fair Political Practice is the ultimate authority; however if you have any questions or comments, please let me know.

Very truly yours,

  
John R. Harper  
City Attorney

# COUNTY COUNSEL



Attachment to WCB  
11/10/94 Minutes

## Memorandum

August 22, 1994

To: Supervisor Bob Buster  
First District

From: Gerald Blankenship *JB*  
Deputy County Counsel

Re: Possible Conflict of Interest Involving  
SMRWMP Policy Committee Member

Reference is made to your memo to Mr. Katzenstein dated August 16, 1994 in which a situation was described involving an alternative member of SMRWMP wherein the member in question is in the process of attempting to sell land that he owns adjacent to the Santa Margarita River to the Nature Conservancy.

A conflict would arise if one were to find a violation of Gov't Code Sect. 87100. This provision reads in its entirety as follows:  
No public official at any level of state or local government shall make, participate in making or in any way attempt to use his official position to influence a governmental decision in which he knows or has reason to know he has a financial interest.

A "public official" includes a person who serves without compensation on an advisory committee. 2 Cal. Code of Regs. Sect. 18700 (a) (1). An official has a financial interest in a decision if the decision will have an effect directly upon land owned by him worth \$1,000 or more. Govt. Code Section 87103 (b) and 2 Cal. Code of Regs. Sect. 18702.3 (a) (1). Thus, a member of the SMRWMP Policy Committee could conceivably become involved in a conflict of interest situation as a result of decisions the member has made or is making while on the committee depending upon his actions on the committee and how binding the decisions of the committee are.

The member could violate Gov't Code Section 87100 if as a committee member he voted in favor of a proposal that affected his land and the action taken by the committee was, itself, binding or was regularly approved or followed by another public official or governmental agency so in effect the decision became binding or highly influential. 2 Cal. Code of Regs. Sect. 18700 (a) (1) (C). Thus, one would have to examine closely the exact actions taken, i.e. votes cast, by the person while serving on the committee and also examine just how binding the final actions of the committee became. From the limited information contained in your memo, it would appear that the member in question has not violated Gov't Code Sect. 87100.

Page 2  
Memo to Supervisor Bob Buster  
August 22, 1994

To date the agency of which the Committee is to be a part has not yet been formed. Thus, we do not have at the present time an operating organization wherein a conflict may arise as contemplated by the statutes governing conflict of interest. When the MOU and the joint powers agency are in place, it will be necessary to examine the role that the committee will ultimately be taking and to examine the degree to which decisions of the committee will be binding on or followed by other governmental bodies or officials.



# Legislative Counsel of California

RON M. GREGORY

Sacramento, California  
September 20, 1994

Honorable Robert Presley  
5114 State Capitol

Conflict of Interest: City Council Member: Sale of Land - #30528

Dear Senator Presley:

## FACTS

You have informed us that Kevin Walsh, a Murrieta City Council Member recently sold a piece of property he owns along the Santa Margarita River, outside the boundaries of the City of Murrieta, to the Nature Conservancy. The Nature Conservancy, in turn, intends to transfer a portion of this property to the state. During ongoing negotiations for the sale of the property, Mr. Walsh served as the city's representative at a July 7, 1994, meeting of the Santa Margarita River Watershed Planning Group, a regional advisory body that would oversee the property in question if it is transferred to the state. We are informed that the Santa Margarita River Watershed Planning Group has no land use authority, but makes policy recommendations regarding the use and protection of the river. During the July 7 meeting, the council member participated in one vote, unrelated to his property, and his property was not discussed at the meeting.

You have asked whether the foregoing facts present a conflict of interest of Mr. Walsh.

The Political Reform Act of 1974 (Title 9 (commencing with Sec. 1000), Gov. C.); hereafter the act) prohibits a public official at any level of state or local government from making or participating in making, or in any way attempting to use his or

<sup>1</sup> All section references are to the Government Code unless otherwise specified.

Honorable Robert Prasley - p. 2 - #30528

her official position to influence, a governmental decision in which he or she knows or has reason to know he or she has a financial interest (Sec. 87100).

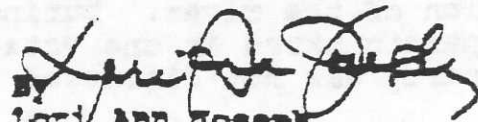
The definition of "public official" includes a city council member (Secs. 82041 and 82048). An official has a financial interest in a decision within the meaning of Section 87100 if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the official, on a member of his or her family, or on, among other economic interests, any real property in which the public official has a direct or indirect interest worth \$1,000 or more (subd. (b), Sec. 87103).

According to the information provided, the only decision in which Mr. Walsh participated for the Santa Margarita River Watershed Planning Group was a motion and subsequent vote to disallow voting participation by the State of California representatives. None of the facts presented connects this decision in any way to the property owned by Mr. Walsh; thus, no financial interest, as defined in Section 87103, appears to be present with respect to that decision. That is, there is no indication that Mr. Walsh's participation in this decision had a material financial effect on him, a member of his immediate family, or any other economic interest identified by the act.

Accordingly, on the basis of the facts presented, we conclude that no conflict of interest existed under the act with regard to Mr. Walsh's participation in the July 7, 1994, meeting of the Santa Margarita River Watershed Planning Group.

Very truly yours,

Bion M. Gregory  
Legislative Counsel



Lori Ann Joseph  
Deputy Legislative Counsel

LAJ:ran



# California Fair Political Practices Commission

Attachment to WCB  
11/10/94 Minutes

September 27, 1994

Kevin P. Walsh  
41994 Hawthorn Street  
Murrieta, CA 92562

Re: FPPC 94/478

Dear Mr. Walsh:

On August 16, 1994 the Fair Political Practices Commission received a complaint from you. Upon review of your complaint the Enforcement Division has determined to close the matter without formal enforcement action. The basis for this decision is as follows:

It would appear that Murrieta City Attorney John R. Harper addressed this issue in a letter to you dated August 16, 1994. The information provided does not warrant further review from the Commission.

If you have any questions, please feel free to contact me at (916) 322-6441.

Sincerely,

A handwritten signature in cursive script, reading "W. Motmans Jr.", is positioned above the typed name.

W. Motmans Jr.  
Investigator  
Enforcement Division



# California Fair Political Practices Commission

Attachment to WCB  
11/10/94 Minutes

September 27, 1994

Mr. Kevin P. Walsh  
41994 Hawthorn Street  
Murrieta, CA 92562

Re: FPPC No. 94/529

Dear Mr. Walsh:

On September 16, 1994, the Fair Political Practices Commission's Enforcement Division received a complaint against you. As a result of the Enforcement Division's resource limitations and significant caseload, we must carefully screen all complaints to determine which matters we will investigate. After reviewing the documentation submitted, we are declining to investigate this matter further. The basis for this decision is stated below.

The Political Reform Act prohibits public officials from making, participating in or influencing any governmental decision in which the official has a financial interest (section 87100). An official has a financial interest if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the official or certain economic interests, including an interest in real property or a source of income (section 87103).

The complaint contains numerous documents relating to you, your position on the Murrieta City Council, your position on the Santa Margarita River Watershed Policy Committee and your sale of real property to the Nature Conservancy. It is alleged that these documents identify specific instances where you participated in governmental decisions which were prohibited conflicts of interest. After reviewing the documentation submitted, we were unable to identify any specific issues that would warrant further investigation at this time.

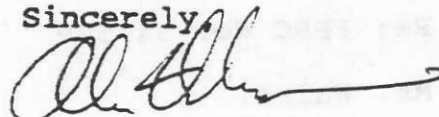
The other issue raised in the complaint concerns your failure to report on Statements of Economic Interests an interest in real property located in Riverside County near the Santa Margarita River. As a member of the Murrieta City Council, you must disclose interests in real property located within your



jurisdiction (sections 87206 and 82033). For purposes of local government agencies, section 82035 defines "jurisdiction" as an area not to exceed two miles from the boundaries of the City (in other words the city limits). From the documentation submitted, and in speaking with you, it appears that the real property near the Santa Margarita River is beyond two miles from the Murrieta city limits. Therefore, you would not be required to report this interest in real property on your Statement of Economic Interests.

Thank you for providing the information requested.

Sincerely,



Alan Herndon  
Chief Investigator  
Enforcement Division