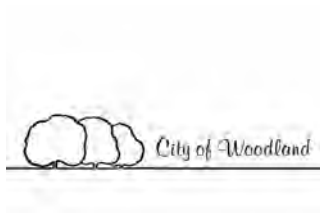


City of Woodland

*300 First Street
Woodland, CA 95695*



Meeting Agenda - Final

Monday, August 5, 2013

4:00 PM

Special Meeting

Council Chambers

City Council

A. CALL TO ORDER**B. ROLL CALL****C. CLOSED SESSION****C.1 Conference with Legal Counsel - Existing Litigation, Pursuant to Section 54956.9(a)**

Name of Case: Norcal II Co-Brands, Inc., Charajit Ghai, and Citizens for Safe Parking

C.2 Conference with Legal Counsel - Anticipated Litigation, Pursuant to Section 54956.9(b)

Number of Cases: 1

D. REPORTS OF THE CITY MANAGER

[13-183](#)

SUBJECT: Yolo County Habitat / Natural Community Conservation Plan Joint Powers Agency

Recommendation for Action:

Staff recommends that the City Council provide direction on development of the Yolo Natural Heritage Program (NHP) as follows:

- 1) Proceed with next steps in the development of the Yolo Natural Heritage Program provided that,
 - a. The City of Woodland's financial contribution for the effort is limited to \$39,163 included in the city's FY2013/14 budget,
 - b. The city's support for proceeding to the next steps of Plan development does not commit the City of Woodland to any plan or process beyond simply the immediate next phase of plan development, and
 - c. The JPA Board recognizes that significant modifications to the First Administrative Draft Plan would need to be made in order to satisfy concerns and issues being identified by the City of Woodland.
- 2) Direct staff to develop a summary of issues, questions and concerns identified in its review of the First Administrative Draft Plan for forwarding to the JPA Board.

Attachments: [Habitat JPA Attachment.pdf](#)

E. ADJOURN

I declare under penalty of perjury that the foregoing Agenda for the City Council Special Meeting of the City of Woodland scheduled for August 5, 2013 was posted on August 2, 2013 in the outside display case at City Hall, 300 First Street, Woodland, CA, and was available to the public during normal business hours.

Ana B. Gonzalez, City Clerk

Upon request, agendas and documents in the agenda packet will be made available in appropriate alternative formats to persons with a disability, as required by law. Any such request must be made in writing to the Office of the City Clerk of the City of Woodland. Requests will be valid for the calendar year in which the request is received, and must be renewed prior to January 1st. Persons needing disability-related modifications or accommodations in order to participate in public meetings, including persons requiring auxiliary aids or services, may request such modifications or accommodations by calling the Office of the City Clerk (530-661-5806) at least 48 hours prior to the meeting.

Legislation Details (With Text)

File #: 13-183 **Version:** 1 **Name:**
Type: Report of the City Manager **Status:** Agenda Ready
File created: 8/2/2013 **In control:** City Council
On agenda: 8/5/2013 **Final action:**
Title: SUBJECT: Yolo County Habitat / Natural Community Conservation Plan Joint Powers Agency

Recommendation for Action:

Staff recommends that the City Council provide direction on development of the Yolo Natural Heritage Program (NHP) as follows:

- 1) Proceed with next steps in the development of the Yolo Natural Heritage Program provided that,
 - a. The City of Woodland's financial contribution for the effort is limited to \$39,163 included in the city's FY2013/14 budget,
 - b. The city's support for proceeding to the next steps of Plan development does not commit the City of Woodland to any plan or process beyond simply the immediate next phase of plan development, and
 - c. The JPA Board recognizes that significant modifications to the First Administrative Draft Plan would need to be made in order to satisfy concerns and issues being identified by the City of Woodland.
- 2) Direct staff to develop a summary of issues, questions and concerns identified in its review of the First Administrative Draft Plan for forwarding to the JPA Board.

Sponsors:

Indexes:

Code sections:

Attachments:

Date	Ver.	Action By	Action	Result
------	------	-----------	--------	--------



City of Woodland

STAFF REPORT

SUBJECT: Yolo County Habitat / Natural Community Conservation Plan Joint Powers Agency

Recommendation for Action

Staff recommends that the City Council provide direction on development of the Yolo Natural Heritage Program (NHP) as follows:

- 1) Proceed with next steps in the development of the Yolo Natural Heritage Program provided that,
 - a. The City of Woodland's financial contribution for the effort is limited to \$39,163 included in the city's FY2013/14 budget,
 - b. The city's support for proceeding to the next steps of Plan development does not commit the City of Woodland to any plan or process beyond simply the immediate next phase of plan development, and
 - c. The JPA Board recognizes that significant modifications to the First Administrative Draft Plan would need to be made in order to satisfy concerns and issues being identified by the City of Woodland.
- 2) Direct staff to develop a summary of issues, questions and concerns identified in its review of the First Administrative Draft Plan for forwarding to the JPA Board.

Fiscal Impact

The recommended City Council action would commit the City to fund its FY2013/14 contribution to the Yolo Habitat Joint Powers Authority (JPA) in the amount of \$39,163. This funding is provided for in the city's approved FY2013/14 budget from General City Development Impact Fees, expected to be recovered through habitat mitigation and conservation fees to be established should the City ultimately sign on to an adopted countywide HCP/NCCP.

Should the JPA vote to dissolve and cease work on the development of the NHP, the city would still be required to fund a contribution of 11,519 to cover wind-down costs for the JPA.

While beyond the scope of the present recommendation, the First Administrative Draft of the Yolo County HCP/NCCP contemplates an ambitious 50-year plan whose initial cost estimate exceeds \$500 million, including \$175 million for the mitigation component and \$329 million for the conservation component of the NCP. The funding for implementation of the plan would come from a combination of local funding - largely fees assessed on future private and public development projects - as well as Federal and State funding sources.

It should be noted that the cost estimates provided in the First Administrative Draft Plan are based on past direction of the JPA staff for conservation targets, mitigation requirements, and other elements of the overall strategy, and has not yet been subject to important public, agency and JPA member review and negotiation

Background

Conservation planning in Yolo County has been ongoing for approximately twenty years. Initial conservation efforts were focused primarily on mitigating impacts to Swainson's hawk foraging habitat resulting from development activity. However, Yolo County and the cities of Davis, West Sacramento, Winters , and Woodland recognized that a more comprehensive approach to conservation planning was needed to address the needs of multiple species and natural communities.

The Yolo County Habitat Joint Powers Agency (JPA) was formed in 2002 to reinforce the commitment of the local governments to develop a regional conservation plan . The JPA has two primary missions: (1) to assist in the planning, preparation , and subsequent administration of the Yolo Natural Heritage (YNHP) Program and (2) to facilitate acquisition of habitat conservation easements as mitigation for impacts to Swainson ' s hawk foraging habitat. The JPA ' s role in overseeing the Swainson's Hawk Foraging Habitat Interim Mitigation Program arose out of a 2002 Memorandum of Understanding (MOU) between the California Department of

Fish & Wildlife (CDFW) and the JPA. The MOU allows land development activities to occur during the preparation of the YNHP . In 2005, the JPA entered into a Planning Agreement with the CDFW and the U.S . Fish and Wildlife Service (USFWS) to support the development of the YNHP . A number of significant changes have occurred within the last year regarding the status of the YNHP . An update on the status of the YNHP was provided to the commission on February 25, 2013 . The first administrative draft of the YNHP was released on July 1, 2013. The following is an overview of the YHNP based on a very quick review by City staff:

Overview of YHNP

This administrative draft is an interim work product and represents a compilation of the work that has been completed to date prior to the reorganization of the JPA staff in late 2012. This is a draft comprehensive plan that includes information on 32 covered species, conservation measures, costs and implementation strategies along with information on 42 species of local concern . The YNHP proposes to preserve over 75,200 acres for all 32 covered species over the life of a 50-year permit. The species will be preserved, mostly through conservation easements, at a cost of approximately \$504 . 7 million dollars over the life of the permit. Mitigation costs are estimated at \$175 . 5 million dollars and conservation costs are estimated to be approximately \$329.2 million dollars. The draft does not address all of the items identified in the four issue papers that were prepared by the JPA over the last six months. Issue papers were prepared regarding the YNHP and Bay Delta Conservation Plan Interface , Giant Garter Snake Conservation, Swainson ' s Hawk Conservation , and Agricultural Conservation Strategy.

Natural Communities

The YNHP identifies six broad habitat classifications throughout Yolo County comprised of four natural communities (grasslands, shrublands and scrub, woodlands and forest, riparian and wetlands), agriculture, and urban or vacant/barren. The acreages within these classifications are as follows:

Grasslands	80,349 acres (12 .3% of County)
Shrublands and Scrub	44,629 acres (6.8% of County)
Woodlands and Forest	83,535 acres (12.7% of County)
Riparian and Wetlands	52,618 acres (8.1 % of County)
<i>Subtotal Natural Communities</i>	<i>261,132 acres (40% of County)</i>
Agriculture	343,959 acres (42.6% of County)
Urban	45,168 acres (6.9% of County)
Barren	2,343 acres (0.4% of County)
<i>Total</i>	<i>652,603 acres (100% of County)</i>

Covered Species

The YNHP covers 32 species including eight plants , six invertebrates, three amphibians , two reptiles , 12 birds, and one mammal. A summary of the status of the 32 species is as follows:

- 4 Federal listed only
- 7 Federal and state listed
- 14 State listed only
- 5 California Native
- 2 Not listed

Four of the covered species have critical habitat designated within the plan area:

- California Tiger Salamander - Designated critical habitat in the plan area for this species is 2,730 acres

located just west of Interstate 5 and the town of Dunnigan in north-central Yolo County.

- Vernal Pool Tadpole Shrimp -- Designated critical habitat in the plan area for this species is the Davis Communications facility/Grasslands regional park in southeast Yolo County.
- Colusa Grass - Designated critical habitat in the plan area for this species is the Davis Communications facility/Grasslands regional park in southeast Yolo County.
- Solano Grass -- Designated critical habitat in the plan area for this species is the Davis Communications facility/Grasslands regional park in southeast Yolo County.

The USFWS designates critical habitat for specific areas that have been determined to be essential to the conservation and recovery of a listed species. Section 7 of the Endangered Species Act prohibits the destruction or adverse modification of designated critical habitat by any activity authorized by a federal agency . Since the USFWS will be issuing a federal permit on the YNHP, the USFWS must evaluate, against this regulatory standard, the effects of implementing the YNHP on critical habitat.

Eleven of the covered species have Recovery Plans:

- Alkali Milk-Vetch - 2005 Recovery Plan for Vernal Pool Ecosystems of California and Southern Oregon.
- Palmate-Bracted Bird ' s-beak - 1998 Recovery Plan for Upland Species of the San Joaquin Valley, California.
- Colusa Grass - 2005 Recovery Plan for Vernal Pool Ecosystems of California and Southern Oregon.
- Solano Grass - 2005 Recovery Plan for Vernal Pool Ecosystems of California and Southern Oregon.
- Conservancy Fairy Shrimp -- 2005 Recovery Plan for Vernal Pool Ecosystems of California and Southern Oregon.
- Vernal Pool Fairy Shrimp -- 2005 Recovery Plan for Vernal Pool Ecosystems of California and Southern Oregon.
- Midvalley Fairy Shrimp -- 2005 Recovery Plan for Vernal Pool Ecosystems of California and Southern Oregon.
- California Linderiella Fairy Shrimp -- 2005 Recovery Plan for Vernal Pool Ecosystems of California and Southern Oregon.
- Vernal Pool Tadpole Shrimp -- 2005 Recovery Plan for Vernal Pool Ecosystems of California and Southern Oregon.
- Western Spadefoot Toad -- 2005 Recovery Plan for Vernal Pool Ecosystems of California and Southern Oregon.
- Bank Swallow -- 1992 Recovery Plan: Bank Swallow

A draft recovery plan has been released for the giant garter snake (1999) and for the Least Bell ' s Vireo (1998) . A final giant garter snake recovery plan is under development. A recovery plan is under development for the California Tiger Salamander. A conservation strategy has been prepared for the Tricolored Blackbird (2007) and the Townsend's Big-Eared Bat (1999).

The white-tailed kite is the only fully protected state species on the list of covered species. Under California law , fully protected species may not be "taken or possessed at any time , and no licenses or permits may be issued for their take . . . ". In 2011, however , the state Legislature amended the NCCP Act allowing the Department to authorize take of fully protected species covered by an NCCP permit. As a result , the YNHP

could pursue take authorization for the white-tailed kite if the JPA pursues an NCCP . An NCCP permit is the only provision that allows for the take of a fully protected species . The white-tailed kite has been known to occur within the City of Woodland.

Species of Local Concern

The YNHP identifies 42 additional "species of local concern" which benefit from YNHP conservation measures for natural communities and from implementation of the Local Conservation Strategy . These 42 species include 17 plants, two invertebrates , one amphibian , 16 birds , and six mammals . A summary of the status of the 42 species is as follows:

- 19 State listed (of which two are also federal listed)
- 16 CNPS listed only
- 7 Not listed

Covered Activities

As described below, the YNHP identifies several broad classes of activities for which take coverage are sought.

1) Urban Development -- The permits will provide incidental take coverage for all covered activities (e.g . planned residential, industrial , and commercial development) consistent with local general plans and related land use and implementation regulations.

2) Infrastructure - The permits will provide incidental take coverage for various identified/planned private and public infrastructure including roadway improvements , state freeways and highways, bicycle lanes and paths, bridges , airport improvements, utility projects (e . g . water , sewage, natural gas , electivity, solar), recreational facilities , flood control and water conveyance facilities, and port improvements.

These projects include the Woodland Wastewater Treatment Plant , Woodland Water Pollution Control Facility, Woodland Water Channel Project , Davis-Woodland Water Supply Project (excluding in - channel components of the diversion facility) , West Sacramento Levee Improvement Project , State Route 16 safety improvements (two segments), County Roads 102 and 98 safety improvements , Woodland-Davis Alternative Transportation Corridor , replacement and rehabilitation of 27 County bridges , three new County bridges , two new PG&E natural gas pipelines, Watts-Woodland Airport and University Airport runway improvements, and various Flood Control and Water Conservation Improvements.

3) Agricultural Facilities -- The permits will provide incidental take coverage for typical agricultural support facilities and structures (e . g . barns , fences, wells, farm roads, etc.), planned agricultural commercial and industrial development consistent with the County General Plan , and farm dwellings consistent with the County General Plan. These projects include 854 acres of new agricultural commercial and industrial facilities and development of up to 1,932 farm dwellings in the unincorporated area,

4) Aggregate Mining - The permits will cover aggregate mining and restoration of lower Cache Creek consistent with the County General Plan and Cache Creek Area Plan. These projects include 3,000 acres of planned gravel mining under the Cache Creek Off-Channel Mining Plan , and restoration of 2,324 acres in channel along Lower Cache Creek pursuant to the Cache Creek Resource Management Plan.

Operations and Maintenance (Ongoing):

The permits will provide incidental take coverage for identified operations and maintenance activities in the four categories of permanent development described above.

Implementation of the YNHP and Local Conservation Strategy (Conservation):

The permits will provide incidental take coverage for habitat modification, management, and monitoring activities undertaken for the purpose of implementation of the YNHP including the Local Conservation Strategy.

The following is a list of activities specifically not covered by the permits:

- Wind energy turbines
- Operation of existing water diversion facilities on the Sacramento River or in the Delta
- In-channel construction and operation of new water diversion facilities in the Sacramento River or Delta
- Construction of in-water Port facilities
- Fallowing of land for sale of water
- Pesticide and herbicide application
- In-water activities with impacts on ESA/ICESA fish species
- Federal projects

Existing Protected Lands

The County and cities of Yolo have successfully worked to preserve agricultural lands and natural communities for over 60 years without the benefit of an integrated regional conservation strategy . Although this land is protected , much of it is not actively managed to maintain or enhance habitat. Land preservation in Yolo has occurred primarily through deliberate policies that directed growth into established cities and communities and provided very strong protections for agriculture and agricultural activities outside of those areas . As a result over 88 percent of the County ' s population lives within the incorporated cities , and almost 98 percent of the unincorporated area is designated for agriculture or open space. These past conservation efforts provide a starting place for the implementation the YNHP.

Discussion

The release of this first administrative draft represents a critical milestone in the YNHP process for the JPA. The City Council and the other JPA member agencies identified this as a necessary milestone for which to evaluate if continuation of the JPA was desirable. The draft NHP is an interim work product and is not a recommended initial plan but rather a baseline for which to work from. The JPA staff has outlined a preliminary list of significant issues in the first draft that will require further work prior to continued development and release of the second draft. These issues are summarized in the June 28th transmittal memo incorporated into the introduction of the draft and is attached for reference. Staff is in the process of reviewing the draft plan and will be preparing comments for submittal prior to the August 30th comment deadline established by the JPA

The JPA Board is scheduled to meet on August 12th to consider continuation of the JPA based on initial assessment of the draft plan. Staff anticipates that the Board will likely vote to continue the JPA to allow for further evaluation of the plan and discussions to occur with the Federal and State wildlife agencies on changes needed to achieve a feasible and desirable plan. It is staff's recommendation that the City Council support continuation of the JPA provided that in doing so the city is not committed to any plan, process or financial commitment aside from the funding previously approved with in the City's FY 13/14 budget. Furthermore, the JPA should acknowledge that significant changes to the first administrative draft will be needed in order to satisfy the significant concerns and issues of the City of Woodland, as well as the other member Agencies.

Conclusion

Staff recommends that the City Council give direction to:

- 1) Proceed with next steps in the development of the Yolo Natural Heritage Program provided that:
 - a. The City of Woodland's financial contribution for the effort is limited to \$39,163 included in the city's FY2013/14 budget,
 - b. The city's support for proceeding to the next steps of Plan development does not commit the City of Woodland to any plan or process beyond simply the immediate next phase of plan development, and
 - c. The JPA Board recognizes that significant modifications to the First Administrative Draft Plan would need to be made in order to satisfy concerns and issues being identified by the City of Woodland.
- 2) Direct staff to develop a summary of issues, questions and concerns identified in its review of the First Administrative Draft Plan for forwarding to the JPA Board.

Prepared by: Ken Hiatt
Community Development Director

Paul Navazio
City Manager

Attachments:

- 1) EXCERPTS - Yolo County HCP/NCCP First Administrative Draft
 - a. Transmittal Letter
 - b. Summary of Remaining Issues (JPA Staff Issue Papers)

**FIRST ADMINISTRATIVE DRAFT
YOLO NATURAL HERITAGE PROGRAM**

Prepared by:

**Yolo County Habitat/Natural Community Conservation Plan
Joint Powers Agency**

625 Court Street, Room 201
Woodland, CA 95695

June 28, 2013

FIRST ADMINISTRATIVE DRAFT YOLO NATURAL HERITAGE PROGRAM

FIRST "ADMINISTRATIVE" DRAFT – The NHP is comprised of both the Yolo County Natural Community Conservation Plan/Habitat Conservation Plan (NCCP/HCP) and the Local Conservation Strategy. Actions implemented under the Local Conservation Strategy are not necessary to comply with the federal Endangered Species Act and the state Natural Community Conservation Planning Act and therefore are not required as part of the proposed NCCP/HCP permits, but can contribute to conserving natural communities and covered species. This is an interim work product for review and analysis by the JPA Board, JPA staff, member agencies, permitting agencies, and the Advisory Committee. Members of the public may review the NHP online or purchase a CD. There will be no public comment period for this draft. This is an administrative document that represents a compilation of all work done by the JPA prior to reorganization in late 2012. It is important to note this draft does not represent the views of the JPA Board, staff, or member agencies. The First draft of the NHP will create a starting point for continuation of the JPA and a usable report should the Board decide in August to dissolve the JPA.

Prepared by:

**Yolo County Habitat/Natural Community Conservation Plan
Joint Powers Agency**

625 Court Street, Room 201
Woodland, CA 95695

June 28, 2013



Yolo Habitat/Natural Community Conservation Plan Joint Powers Agency

YOLO NATURAL HERITAGE PROGRAM

~ Partnering for Conservation ~

Member Agencies

County of Yolo • City of Davis • City of Winters • City of West Sacramento • City of Woodland

University of California, Davis

To: Yolo Habitat Joint Powers Agency (JPA) Board

From: Petrea Marchand, Executive Director
Yolo Habitat JPA

Heidi Tschudin, Project Manager
Yolo Natural Heritage Program

Subject: **TRANSMITTAL OF FIRST ADMINISTRATIVE DRAFT OF THE
YOLO NATURAL HERITAGE PROGRAM**

Date: June 28, 2013

We are pleased to present the First Administrative Draft of the Yolo Natural Heritage Program (NHP) to the Yolo Habitat JPA. The NHP is comprised of both the Yolo County Natural Community Conservation Plan/Habitat Conservation Plan (NCCP/HCP) and the Local Conservation Strategy. Actions implemented under the Local Conservation Strategy are not necessary to comply with the federal Endangered Species Act and the state Natural Community Conservation Planning Act and therefore are not required as part of the proposed NCCP/HCP permits, but can contribute to conserving natural communities and covered species.

This is an interim work product for review and analysis by the JPA Board, JPA staff, member agencies, permitting agencies, and the Advisory Committee. Members of the public may review the NHP online or purchase a CD. There will be no public comment period for this draft. This is an administrative document that represents a compilation of all work done by the JPA prior to reorganization in late 2012. It is important to note this draft does not address the items JPA staff has identified in the four issue papers finalized to date. (See attached summary of issues from each of those papers.) Nor does this document represent the views of the JPA Board, staff, or member agencies. The purpose of publishing this first draft of the NHP is to create a starting point for continuation of the JPA or a usable report should the Board decide in August to dissolve the JPA.

Release of this draft allows the JPA Board, JPA staff, member agencies, permitting agencies, and the Advisory Committee to review a full draft of the NHP for the first time since commencement of the process in 2005. In preparing this draft for release, we identified many issues that will require further work. If the JPA Board votes to continue work on this effort, the Second Administrative Draft Plan (targeted for release in January 2014) will represent the

recommendations of JPA staff (based on JPA Board direction) and best accommodation of comments received on the first administrative draft from the entities listed above.

The following list represents significant issues in the first draft NHP that require further work prior to release of the second draft. This list is preliminary and subject to continued review and refinement over the next few months. This list documents for the JPA Board issues that staff recognize as needing significant negotiation, modification, and/or refinement. A brief description of each issue is provided. The issues are organized generally in the order they appear in the draft NHP. They are numbered for convenience and reference only. The order of issues is not reflective of their importance or the order in which they may be resolved.

1. Simplify the document (general) – The length of the document overall, and several of the chapters in particular, is overwhelming. With agreement of the permitting agencies, the document would benefit from simplification, elimination of duplication, and consolidation wherever possible. This may include, among other things, consolidation of detailed species descriptions to one section with references forward or backward, and elimination of lengthy impact assessment language in favor of summary tables.
2. Seek other programmatic permits (general) -- The opportunity exists (concurrent with or following adoption and issuance of take permits for the NCCP/HCP) to also seek a programmatic Clean Water Act Section 404 permit from the U.S. Army Corps of Engineers allowing discharge of fill into waters of the United States and a programmatic Section 1602 permit from the California Department of Fish and Wildlife allowing for alteration of streambeds. JPA staff will coordinate with permitting agencies and member agencies to examine the value of such permits within the permit area, as compared to the effort and cost it would entail.
3. Combine conservation targets to maximize funding (general) -- This draft differentiates between mitigation acreage targets and conservation acreage targets for purposes of understanding the separate assumptions and obligations of each. Ultimately, however, it appears it may be beneficial to combine the two for the purposes of permitting to maximize funding opportunities.
4. Plan Area and covered species (Chapter 1) -- The defined covered area (Plan Area) and list of covered species merit continued consideration and deliberation. Options to make the Plan more affordable and feasible include reducing the acreage in the Hill and Ridge Landscape Unit, removing the NCCP component, eliminating the area that overlaps with the Bay Delta Conservation Plan (BDCP), reducing the number of covered species, and/or revisiting the conservation targets for covered species. These options will be explored in greater detail at the August 12, 2013 JPA meeting at which time a decision will be made regarding whether to continue work on the NHP.
5. Context for conservation strategy (Chapter 2) -- The draft NHP focuses on the covered area boundaries (Yolo County) and does not look beyond. All habitat types within Yolo are viewed as important, but some habitats are treated as having higher value because of their rarity within the Plan Area without regard to how common they may be in areas adjoining Yolo County. The commitment of effort and funding to protect and restore the amount and/or type of some habitat in Yolo County merits discussion, especially if there are bigger, better opportunities nearby but outside the Plan Area boundary.

6. Existing agricultural conditions (Chapter 2) -- The analysis uses point-in-time data for analyzing agriculture, yet the Yolo agricultural landscape changes yearly and sometimes more frequently as a result of changes in crop prices, input costs, or other factors. The NHP data base was modified for this draft to incorporate recent data from the Department of Water Resources related to field borders; however, it does not integrate more detailed data available from the Yolo County Agricultural Commissioner and other sources that offer multiple years of crop production. Agricultural data is utilized to estimate impacts and establish mitigation/conservation targets. Actual impacts are determined at the time of project approval, based on site-specific surveys conducted at the time of project application. JPA staff will investigate whether the use of a range of updated agricultural data, such as crop acreage averages versus point-in-time data, would improve the draft NHP.
7. Clarification of covered activities (Chapter 3) -- Covered activities need detailed review by member agencies and subsequent clarification and possibly modification. This may trigger the need to re-run the modeling and impact analysis. Adding land use tables that show "already developed" and "undeveloped but planned" land for each member agency may also be useful. JPA staff will work with the permitting and member agencies to clarify/confirm the covered activities description.

It is important to note the NHP may not cover full build-out of member General Plans because the NHP assumes limits on impacts and requirements for avoidance of take. These limits may not affect build out of General Plans if member agencies avoid the small areas of the habitat (e.g. riparian, wetland, and aquatic) for which the NHP identifies limits on take. In other words, it is not an issue of whether the member agencies can build out, but rather *how* they build out. The member agencies should consider this issue when undertaking their review. Additionally, the organization and format of the description of the activities should be improved.

8. Consideration of baseline (Chapter 4) -- The baseline for Yolo County reflects years of stewardship and responsible development decisions. If impacts are limited to less than three percent of the entire Plan Area and the other 97+ percent is preserved, is this stewardship a relevant factor in defining the conservation obligation? While the JPA recognizes that restricting development is not the same as permanently preserving land for use as habitat, Yolo County's particular commitment to preservation of agricultural land and open space is nevertheless beneficial for preservation of natural communities and covered species. The conservation strategy in this draft appears to approach mitigation and conservation in the same manner for Yolo as for other less responsible jurisdictions. Member agencies and other conservation entities also need to verify and update Figure 5-2 (Public and Easement Habitat Lands in the Plan Area) to accurately illustrate the local commitment to land preservation.
9. Rationale for targets (Chapter 5) -- It appears the proposed mitigation and conservation, as well as the geographic extent of the NHP overall may go beyond what would otherwise be required to justify/support issuance of take permits for covered activities. The NHP sets specific separate targets for species and for natural communities. Mitigation for species impacts is required, but the ratios and terms are negotiated. Conservation for natural communities is negotiated. The JPA and the permitting agencies should further deliberate the feasibility of the specific assumptions for these items and the targets. This should include examination of specific land cover types and location.

Conservation of species where covered activities have no impacts (a portion of which is required to satisfy NCCP requirements) represents a significant proportion of the NHP obligation. This approach affects the feasibility and affordability of the NHP. Staff will work with the agencies and consultants to examine the rationale for the mitigation and conservation targets and possibly “redefine” the NHP to move desirable but not required components (e.g. a significant portion of the conservation target acreage; possibly some recommended ecological corridor preservation; and other components that may be identified) into the Local Conservation Strategy, where the member agencies have flexibility and discretion. The NHP also needs additional detail about how the conservation targets were initially developed.

Identification of the existing extent of habitat by species in Yolo County is not based on actual species surveys across the Plan Area. This would not have been feasible or affordable. Rather it is based on known species occurrences from various databases, and on modeling based on defined species characteristics. This method is appropriate for an effort of this magnitude but it is not precise. By design, the level of precision in the NHP database will be improved over time through species surveys done during implementation, and through project permitting. Since it is not precise, it also may allow the JPA to work with the permitting agencies to refine some of the resulting target acreages to conserve species during the second draft process.

10. Preservation v. restoration (Chapter 5) -- Mitigation and conservation are comprised of both preservation and restoration. In general, restoration is challenging and expensive. The proportion of restoration, if any, should be deliberated for feasibility.
11. Tenure for easements (Chapter 5) -- The NHP acknowledges the permitting agencies require permanent easements for mitigation. The tenure for easements in general (for both mitigation and conservation), however, is a topic that merits further consideration. The JPA has explored short-term and other more flexible easement terms for agricultural preservation, for example. In this draft, those opportunities are allowed only under the Local Conservation Strategy (see discussion below). JPA staff will continue to work with the permitting agencies to explore a tiered system of mitigation/conservation credit that recognizes the value of easements of varying tenure.
12. Agricultural crop restrictions (Chapter 5) – For many years pursuant to the JPA Memorandum of Understanding with the State, the JPA has utilized a fairly flexible agricultural conservation easement template for purposes of mitigating for loss of Swainson’s hawk foraging habitat. This template restricted landowners from converting to orchards and vineyards that are generally accepted as having low habitat value, but did not restrict other crop choices. The NHP proposes a new approach wherein the easements would identify what crops are allowed rather than what crops are not allowed, thereby limiting the choice of the farmer. This approach is not as restrictive as some of the proposals discussed during preparation of the JPA issues papers, but nevertheless represents a departure from current practice. The limits on acceptable crop types are more restrictive generally, and the new easements would also include an additional requirement to manage the lands to increase habitat function (Section 5.4.2.2.6). This approach may not be feasible and may adversely affect the ability to successfully implement the conservation strategy.
13. Local Conservation Strategy (Chapter 5) -- Based on prior direction from the permitting agencies, the NHP assumes no “credit” under the proposed NCCP or HCP permits for the

proposed Local Conservation Strategy. As a result, the Local Conservation Strategy has been segregated from the NCCP/HCP in this draft of the NHP and would not be covered under either of the permits. This is an issue of great importance to various interests in Yolo and will be subject to additional consideration and possible modification. In addition, JPA staff will work with the Advisory Committee and other interested parties to expand the Local Conservation Strategy for the next draft.

14. Managed wetlands for giant garter snake (Chapter 5) – In the course of preparing the issue papers, JPA staff learned the protocols and methods for managing wetlands to benefit giant garter snake may not align with the protocols and methods used to manage wetlands for waterfowl. Fall/winter flooding of managed wetlands, for example, is beneficial for wintering waterfowl but not for giant garter snake. Spring/summer flooding of managed wetlands is beneficial for nesting/brooding waterfowl and neutral for giant garter snake. As a follow up item for the second draft NHP, the JPA should examine the issue of whether and how wetlands managed for waterfowl can also benefit other species targeted for conservation. This may be relevant to the discussion of achieving “credit” for existing protected habitat.
15. Rigor of adaptive management (Chapter 6) -- The NHP identifies extensive surveying, monitoring, and reporting as part of ongoing adaptive management of the program that appear to exceed what may be required, and/or feasible and affordable to implement. These items should be explored with the permitting agencies to eliminate activities that are not required and to ensure flexibility wherever possible.
16. Rigor of implementation (Chapter 7) -- The details of implementation include a number of proposed commitments, such as amount of time allowed for implementation of mitigation and the requirement for management plans for individual sites. The NHP allows for up to one year for implementation of acquisition and up to two years for implementation of restoration. These periods reflect the minimum amount of time likely needed to undertake the required steps for public sector land identification, appraisal, purchase, associated contract bid process, and on-site work. These and other commitments in Chapter 7 should be considered for feasibility as part of the next draft. In addition, it may make more sense for the JPA to develop bylaws to address some of the administrative details rather than include them in the NHP.
17. Reserve design (Chapter 7) -- The NHP proposes a process-based (as opposed to map-based) reserve design. The characteristics, criteria, and thresholds for decisions regarding preservation (land assembly principles) are identified in detail down to planning unit level acreage targets, but the NHP does not include a map that provides a visualization of how the reserve would come together geographically. A hybrid approach that includes a high-level (not property specific) “fuzzy” map that shows the general design of the reserve may be beneficial.
18. Actions in Yolo Bypass (Chapter 7) -- The NHP does not generally propose mitigation within the Yolo Bypass due to periodic inundation proposed under the BDCP to increase over time. The effect of this is to remove the entire Yolo Bypass as a giant garter snake mitigation/conservation area for which Yolo would otherwise get “credit” under the NHP. There may be other species conservation targets that are affected as well. Given the permitting agencies are reconsidering the suitability of the Yolo Bypass for giant garter snake, this issue merits additional consideration and discussion.

19. Funding restrictions (Chapter 7) -- Based on the implementation schedule proposed in the NHP, the likely flow of and restrictions on funding, and practical requirements for successfully running the program, funding for administration is likely to come primarily from mitigation money and funding for acquisition (including some mitigation acquisition) is likely to come initially from conservation money. Section 7.5.6 mentions borrowing against conservation actions to show timely progress on mitigation. Timing of acquisition for mitigation is a concern and the interplay between “jump start” and “pay ahead” provisions of Chapter 7 as related to the timing of mitigation, funding restrictions that preclude use of certain monies for mitigation, and the nexus requirements of the California Environmental Quality Act (CEQA), merit additional consideration.
20. Permit uncertainty (Chapter 7) – Section 7.10.4.2 contains requirements related to “changed circumstances” that make the JPA responsible for certain actions in response to changed conditions. Restoration and repair after a flood or levee breach, and responsibility for water supply during a drought, are two examples. Chapter 8 includes assumptions for the costs of these responsibilities. The JPA’s responsibilities for changed conditions and other described permit uncertainties merit particular consideration.
21. Agricultural participation (Chapter 7) – Farmers and ranchers who wish to participate in the NHP and utilize the protections of the permits for their activities must “opt in” to the program. Section 7.5.1.2 identifies the process to do this. The JPA should further evaluate the likelihood of success of the proposed process.
22. Cost estimates (Chapter 8) -- Chapter 8 predicts program costs through the entire 50-year permit period at \$500 million. It is highly unlikely these costs can truly be predicted with any precision. It may be useful to examine cost ranges in the next draft. Additionally, Chapter 8 does not look at annual costs to member agencies to run the program – this may also be useful. JPA staff has been advised that a nexus study will be necessary to demonstrate the identified fees for mitigation are defensible (do not exceed costs) and do not exceed the proportionate level of impact caused by the applicants that will pay them. The timing and funding for this study has not yet been identified.
23. Funding share (Chapter 8) -- The rationale behind the identified local and federal/state shares of funding merits additional consideration to confirm both the assumptions and the identified shares.
24. Local revenue (Chapter 8) -- Chapter 8 describes a variety of possible local taxes and assessments that could help fund implementation of the NHP. The reality of finding local funding for the NHP is challenging. Fees and assessments that require voter approval are difficult to enact. The County and cities have collaborated over the years to direct growth to cities and as a result City residents generally perceive existing land use policies as already successfully protecting agricultural land and open space. The likelihood of passing an open space tax may therefore be lower than in other communities. Over the past decade, cities in Yolo County have passed taxes that benefit local services such as transportation and flood control, but none (other than Davis) have passed taxes for open space protection or habitat conservation. There have been no attempts in Yolo to date to pass countywide taxes that mutually benefit the cities and County. Other options for local sources of funding may be available, such as credit for existing protected lands or use of the Delta NCCP funds

available from the state Wildlife Conservation Board, which should be explored with the permitting agencies during development of the second draft.

25. Federal/state revenue (Chapter 8) -- There may be a structural deficit between estimated costs to implement the NHP and likely available revenue to pay for it. Analysis of how various component costs of NHP implementation could be met through different specific grants or other funding reasonably available to Yolo would be helpful. A funding source matrix will be considered for addition in the next draft. The concern is that grants upon which the JPA has relied in the past (and currently) are not a reliable ongoing source of annual funding or may be exhausted part way through the NHP period and not renewed. Extrapolated forward with a reasonable assumption as to what the NHP could expect to receive, it is difficult to assume with confidence the amount needed will be available. Moreover, the alternative that entails relying on future state bonds being more generous than past state bonds is a risky assumption.
26. Cost assumptions (Appendix H) -- The detailed cost assumptions in Appendix H merit further review and analysis. Some appear to be high and others low. The use of ranges could help address this issue. These numbers will receive additional scrutiny during the first review and can be refined for the second draft.

Attachment

ATTACHMENT

Summary of “Remaining Issues” from the JPA Issue Papers

NHP and BDCP Interface Issue Paper (May 23, 2013 final)

1. **Mechanism for achieving conservation objectives in BDCP overlap areas.** The JPA, BDCP, and the permitting agencies, must establish a mechanism to provide assurances to all parties that the conservation objective for covered species can be met in the area of overlap between the NHP and BDCP by either or both plans.
2. **Mitigation for BDCP impacts outside of Yolo County within Yolo County (and vice versa).** The JPA, permitting agencies, and BDCP need to develop policies related to BDCP mitigation efforts implemented in the Yolo Plan Area for impacts of BDCP actions outside of the Yolo Plan Area and vice versa – the potential for BDCP to mitigate outside of the Yolo Plan Area for BDCP impacts in the Yolo Plan Area.
3. **Assurances re NHP permit commitments.** The JPA, permitting agencies, and BDCP need to discuss the possibility of USFWS and DFW assurances in the NHP regarding any failure of the NHP to achieve NHP permit commitments resulting from implementation of permitted BDCP actions.
4. **Consistency of BDCP and NHP implementation actions.** The JPA, permitting agencies, and the BDCP need to ensure consistency of BDCP habitat restoration, protection, and management actions in the Yolo Plan Area with NHP implementation requirements (e.g., mitigation requirements, application of conservation land assembly principles).
5. **Land cost increases or other impacts resulting from competition.** The permitting agencies, BDCP and the JPA need to identify mechanisms for avoiding/minimizing competition between NHP and BDCP for acquisition of lands necessary for NHP and BDCP to achieve their biological goals and objectives and permit commitments.

NHP Giant Garter Snake Conservation Issue Paper (April 8, 2013 final)

1. **Rice v. restored wetland.** The permitting agencies have indicated the JPA should focus the agricultural component of the giant garter snake conservation strategy on preservation of rice because of the high value for the species. The JPA’s current proposal would allow restoration of wetland and upland habitat in or adjacent to occupied rice land habitat to be substituted for some acreage of rice land that otherwise would be protected. The permitting agencies requested that the JPA provide a range (minimum and maximum) of restoration that would occur in lieu of protection of existing rice land.
2. **Commitment to target rice acreage.** The JPA is proposing to support continued rice production for the benefit of giant garter snake. The wildlife agencies have indicated, however, that to make their respective statutory findings, the NHP must commit to permanently protecting a certain amount of rice acreage (with approved crop rotations).
3. **Consistency with the Bay Delta Conservation Plan conservation strategy.** The JPA seeks to attain a cooperative and complementary agreement between BDCP and the

NHP that avoids competition for land acquisition between the two jurisdictions and presents an acceptable solution to the permitting agencies.

4. **Yolo Bypass giant garter snake habitat.** The JPA and the wildlife agencies need to further discuss the suitability of the Yolo Bypass for giant garter snake habitat. Although the USFWS giant garter snake recovery plan is not yet public, it is the JPA's understanding this plan will not identify flood basins, such as the Yolo Bypass, as habitat for giant garter snake. Yet it is also clear the giant garter snake is present in the Yolo Bypass and the current mix of wetlands and rice could provide significant benefits to the snake.

NHP Swainson's Hawk Conservation Paper (March 18, 2013 final)

1. **Alfalfa v. multi-crop matrix.** The permitting agencies have indicated the JPA should focus the agricultural component of the Swainson's hawk conservation strategy on preservation of alfalfa because of the high foraging value for Swainson's hawk. The JPA's current proposal focuses on using a crop matrix developed through a multi-year process involving independent scientific experts, as well as the permitting agencies.
2. **Commitment to alfalfa in perpetuity v. long-term contracts.** The California Department of Fish and Wildlife has indicated that to make their statutory findings for a Natural Community Conservation Plan permit (e.g. "contribution to recovery of a listed species"), the NHP may need to commit to permanently protecting a certain amount of alfalfa acreage with approved crop rotations to preserve Swainson's hawk habitat. The JPA would prefer to enter into long-term contracts for the term of the permit, depending on what is possible to achieve with farmers in Yolo County and also consistent with the needs of Swainson's hawk.
3. **Consistency with NCCPA permit issuance criteria.** The JPA and the California Department of Fish and Wildlife need to further discuss whether long-term contracts with the existing crop matrix can meet the permitting requirements of the NCCPA.
4. **Consistency with the Bay Delta Conservation Plan conservation strategy.** The JPA and the permitting agencies need to discuss consistency of BDCP with the NHP.

NHP Agricultural Conservation Strategy Issue Paper (February 27, 2013 final)

1. **Local conservation v. permit requirement.** Additional discussion is needed regarding the extent to which the agricultural conservation strategy as proposed can and should be incorporated into the NHP's conservation strategy for the purposes of receiving incidental take permits, versus pursuing a voluntary program outside of the regulatory process.
2. **Long-term contracts v. permanent conservation easements.** The JPA has advocated for the ability to enter into agreements or contracts to pay farmers to maintain a sufficient acreage of certain crop types to maintain baseline "habitat units" over the life of the permit, rather than in perpetuity. The JPA has proposed long-term contracts instead of permanent easements because this approach recognizes the County's existing land use and cropping practices have resulted in good habitat for wildlife and allows the JPA to enter into contracts only when necessary to preserve certain crop types over the life of the permit. This approach is more likely to be embraced by farmers and ranchers.

3. **The agricultural strategy does not account for how crops are managed.** Although sensitive species are known to utilize agricultural landscapes, the management and operation of agricultural lands will significantly influence the extent of the benefit to sensitive species. The JPA assumed that the customary practices associated with particular crops, described in the NHP, provide habitat value for species. The wildlife agencies would like assurances regarding agricultural management practices.
4. **The agricultural strategy as currently formulated does not address concerns about linkages and corridors that maintain habitat connectivity.** The permitting agencies are concerned the agricultural conservation strategy as currently proposed would result in population sinks and fragmentation of habitat. The current proposal does not ensure connectivity in the agricultural landscape because baseline conditions are not proposed for recording and other issues mentioned above.
5. **Conversion of farmland acreage from one category of crops (e.g. rice or alfalfa) to another category (e.g. tomatoes or corn) will not provide the same habitat value.** The agencies propose that farmers need to commit to maintaining present acreage (“opt-in to binding agreements”) in specific categories of crops (e.g. rice or alfalfa) permanently (“in perpetuity”), if these lands are to count as habitat.