YOLO COUNTY
PLANNING AND PUBLIC WORKS DEPARTMENT

INITIAL STUDY / MITIGATED NEGATIVE DECLARATION

FILE # 2011-0033

CAPITOL CONSERVATION BANK

USE PERMIT, FLOOD HAZARD DEVELOPMENT PERMIT, AND WILLIAMSON ACT OPEN SPACE AGREEMENT

APRIL 2013

Initial Environmental Study/Mitigated Negative Declaration

1. **Project Title: Zone File No. 2011-0033** Capital Conservation Bank Use Permit, Flood Hazard Development Permit, and Williamson Act Open Space Agreement

2. **Lead Agency Name and Address:**
   Yolo County Planning and Public Works Department
   292 West Beamer Street
   Woodland, CA 95695

3. **Contact Person:**
   Eric Parfrey, Principal Planner
   (530) 666-8043
   eric.parfrey@yolocounty.org

4. **Project Location:**
   The property is located at the north end of County Road (CR) 107 and east of CR 152 within the Yolo Bypass area, approximately 10 miles southeast of the City of Davis (APN: 033-190-010) (see Figure 1 and Figure 2).

5. **Project Sponsor's Name and Address:**
   America's Habitats/Capital Conservation Bank
   7803 Madison Ave.
   Suite 700 C
   Citrus Heights, CA
   916-966-7325
   Attn: Dustin Smith

6. **Land Owner's Name and Address:**
   Ron and Clover Smith
   2665 Somey Loop Road
   Rescue, CA 95672

7. **General Plan Designation(s):**
   Designated as Agriculture (AG) in the 2030 Yolo Countywide General Plan

8. **Zoning:**
   Currently zoned Agricultural Preserve (A-P)

9. **Description of the Project:**
   See attached "Project Description" on the following pages for details.

1. **Surrounding Land Uses and Setting:** The properties to the north and south are both duck hunting clubs and wetlands; agriculture to the east; existing conservation bank to the west.

2. **Other public agencies whose approval is required:**

    - U.S. Fish and Wildlife Service: Approval of the Bank Enabling Instrument and consultation with the National Oceanic and Atmospheric Administration and U.S. Army Corps of Engineers (Corps) under Section 7 of the Endangered Species Act, with possible permitting through a Nationwide Permit 27.

    - California Department of Fish and Wildlife: Approval of a Consistency Determination or an Incidental Take Permit.

    - Central Valley Flood Protection Board: Approval of a Floodway Encroachment Permit.

    - Central Valley Regional Water Quality Control Board: Issuance of a water quality certification associated with the U.S. Army Corps permit.

3. **Other Project Assumptions:** The Initial Study assumes compliance with all applicable State, Federal, and Local Codes and Regulations including, but not limited to, County of Yolo Improvement Standards, the State Health and Safety Code, and the State Public Resources Code.

PROJECT DESCRIPTION

The project is a Use Permit, Flood Hazard Development Permit, and Williamson Act Open Space Agreement for the first and second phases of a 320-acre wildlife conservation bank for the giant garter snake, an endangered species. The property is located at the north end of County Road (CR) 107 and east of CR 152 within the Yolo Bypass area, approximately 10 miles southeast of the City of Davis (APN: 033-190-010) (Figures 1 and 2).

The first 137-acre phase of the conservation bank has been designed and is described in detail in many documents provided by the applicant, including a long term management plan for the project site following restoration activities. The second phase (and perhaps additional phases thereafter) will proceed if the first phase is successful. The federal and state permitting agencies will not allow a second phase to proceed unless the first phase has been proven to be a biological success, in terms of verifying a population of giant garter snakes in the newly created habitat.

Along with Phase 1, the second phase has also been designed and has been analyzed in enough detail (e.g., completed biological species surveys, wetlands delineation, and hydraulic modeling) for Yolo County's environmental analysis. Phase 1 and Phase 2 are also being considered together in this environmental analysis because Phase 1 by itself may not balance in terms of grading. Some soil may be exported tone of two identified spoils sites in Phase 2 fields to meet the cut and fill grading requirements for Phase 1. Thus, this analysis by Yolo County has taken into account development of the entire 320-acre project and the permits will be issued for the entire area, if the project is approved by the County.

However, as noted, the second phase cannot be initiated until the success of Phase 1 is documented. The wildlife permitting authorities (e.g., U.S. Fish and Wildlife Service and California Department of Fish and Wildlife) have not yet begun their analysis and approval process for the second phase, as they have with the first phase. The second phase of the project may require additional supplemental environmental analysis before these agencies can complete their review in the future, as allowed under the California Environmental Quality Act Guidelines (Section 15162, Subsequent EIRs and Negative Declarations) .

A Use Permit pursuant to the Habitat Mitigation Ordinance of Yolo County, adopted by the Yolo County Board of Supervisors on January 29, 2013. For such projects that are 160 or more acres in size, the Planning Commission shall act on the Use Permit in an advisory capacity to the Board of Supervisors, which shall make the final decision.

In addition, as noted above, the project also requires two additional County approvals: a Flood Hazard Development Permit (required because the project involves development of structures earthen berms and lagoons in a floodplain), and a Williamson Act Open Space Agreement (required because the land under contract is converting to an open space use). To approve an open space use, the Board of Supervisors must find that the project fits within one or more categories set forth in Government Code Section 51201(o) (defining open space uses authorized under the Williamson Act). For this particular project, the Board is expected to primarily evaluate whether the proposed use qualifies as a "wildlife habitat area" under Section 51201(j), which requires consultation with the California Department of Fish and Wildlife

regarding the importance of the property (taking the project into consideration) to the protection and enhancement of state wildlife resources.

The project site consists of three agricultural fields that comprise a larger farm property owned by the Smith family. The property in turn is one of four contiguous properties totaling approximately 1,242 acres owned and farmed by the same family. Land uses that surround the project site include adjacent agricultural operations, including rice and grain fields, wetlands and duck clubs, and the established Pope Ranch Conservation Bank, located to the west. The Pope Ranch Conservation Bank is owned by Wildlands, Inc., and was also developed as a giant garter snake mitigation bank, as well as providing Swainson's hawk mitigation credits.

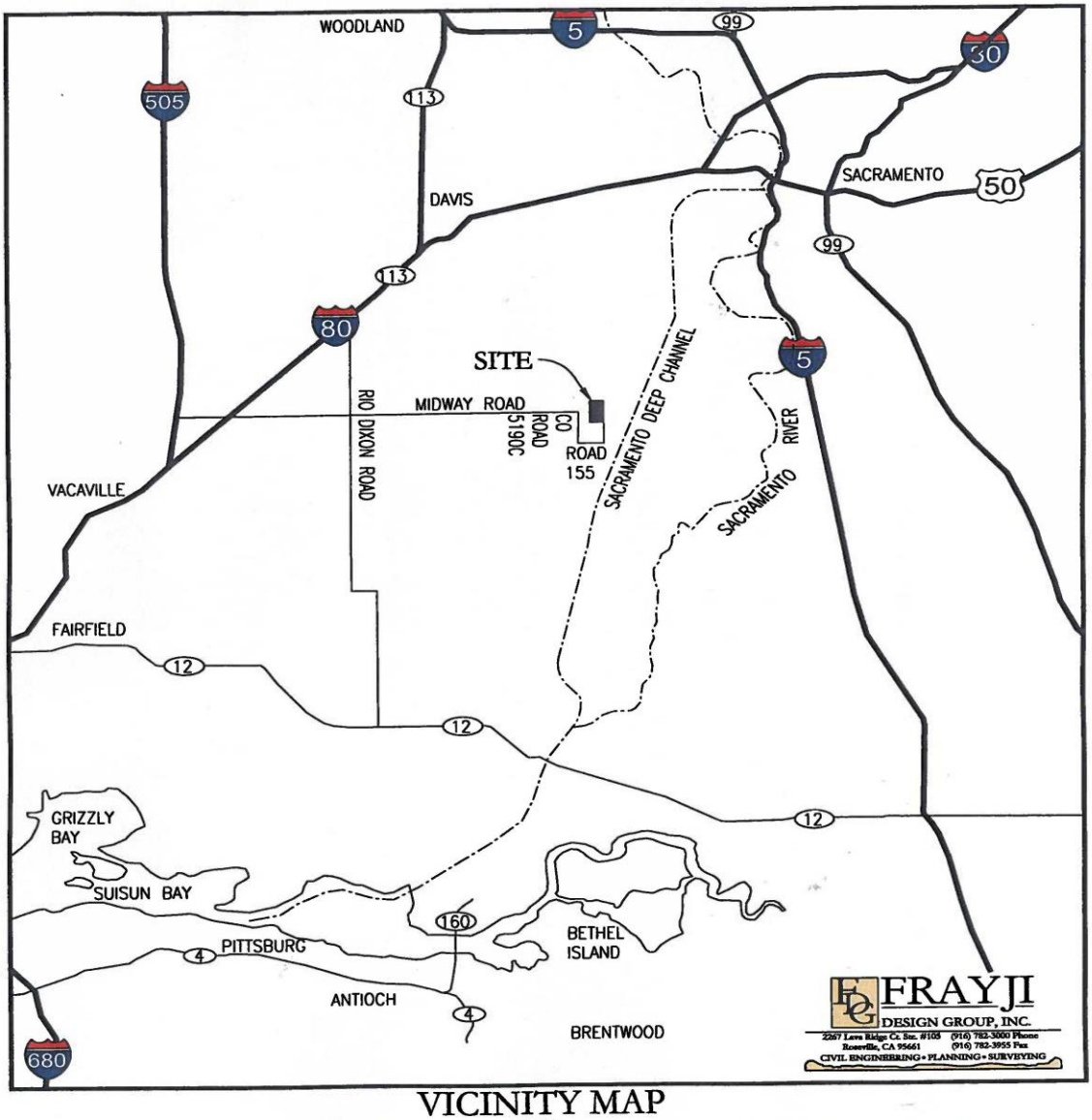
The 320-acre project site consists of a southern field (Phase 1) and two middle fields (Phase 2). The southern Phase 1 field has been fallowed for the last two seasons but is disked on a regular basis. The Phase 2 middle fields are currently planted with some corn crop and were previously planted with sunflower seeds.

The conceptual site plan for the project shows construction of a mosaic of wetlands and uplands to create suitable habitat for the giant garter snake. Approximately 78 acres of wetlands would be graded interspersed with 57 acres of mounded upland habitat (Figure 3) The project would create a mix of wetland types with variable water depth and duration of ponding, ranging from shallow, seasonal wetlands to perennial wetlands with associated deep channels. The wetlands would be sustained by the heavy clay soils on the site and the natural sources of rainfall and periodic flooding of the Yolo Bypass. Supplemental water would be provided by the adjacent Bart Pump, which transports water from the Deep Canal, which receives water from the Yolo Bypass Toe Drain. A back up pump would only be installed and used as neded. More information about water management is provided in the Long-Term Management Plan (H.T. Harvey & Associates, 2013), and related information appears in the Section 7 Consultation provided by the National Marine Fisheries Service in a December 14, 2011 letter (USNMFS, 2011).

The upland habitat would be graded to include mounds above variety of flood elevations, including the 100-year flood elevation to provide opportunities for the snakes to escape floods and to possibly capture snakes that are transported down the Yolo Bypass during high flow events. The shallow upland benches along the perimeter of the wetlands channels would be planted with tules. The shallow perimeters of the wetlands would be planted with plants such as rushes and creeping spikerush. As with water management, more information is set forth in the Long-Term Management Plan, which is incorporated herein by this reference. Various Conditions of Approval proposed in connection with the Use Permit will require the applicant to adhere to management requirements set forth in the Long-Term Management Plan, which are referenced at times in the Evaluation of Environmental Impacts section of this IS/MND (below).

FIGURE 1

VICINITY MAP



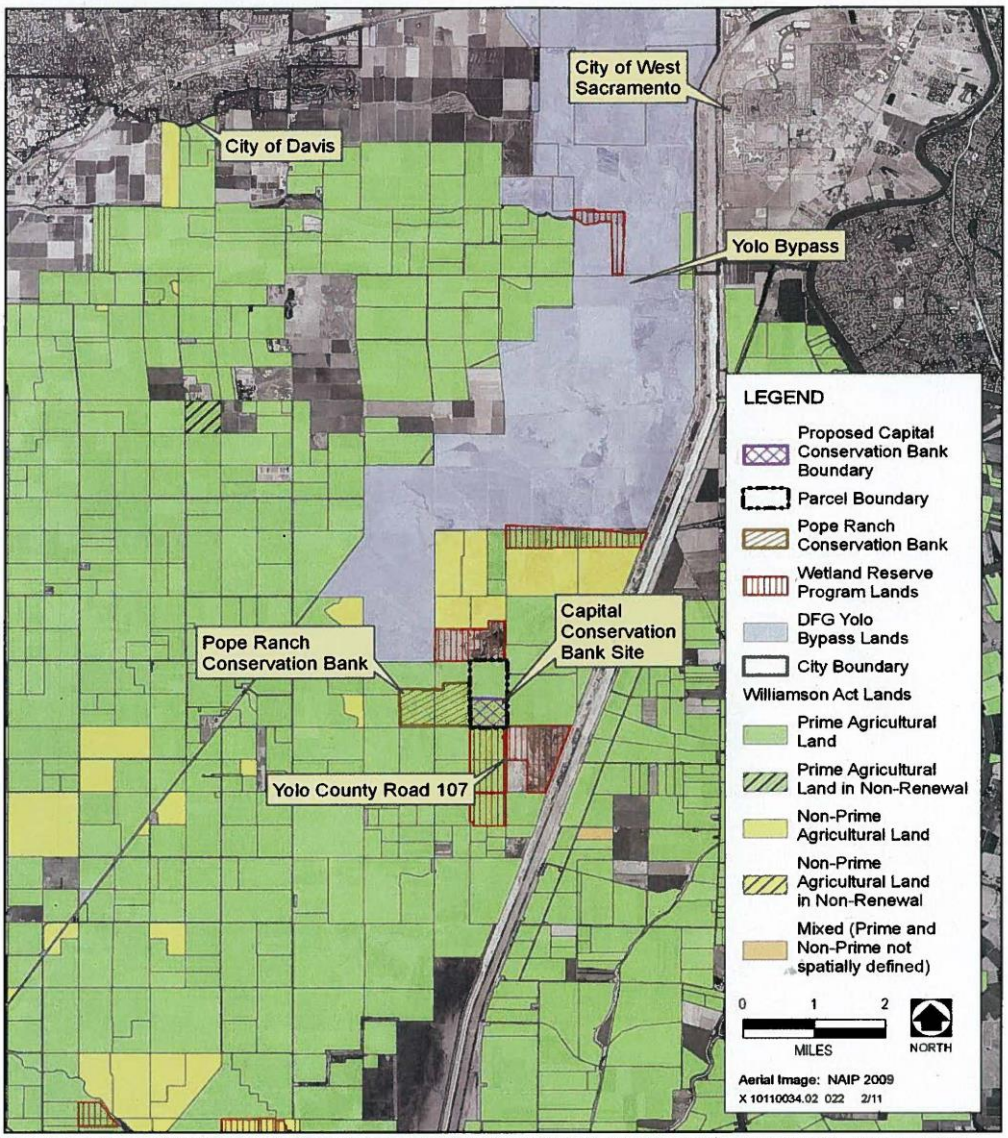
VICINITY MAP

NTS

Capital Conservation Bank

FIGURE 2

REGIONAL LAND USES



Source: Yolo County 2009, Wiemeyer Ecological Sciences adapted by AECOM 2010, Department of Conservation 2006, 2008. And 2009

Regional Land Use Context **Exhibit 3**

AECOM
Prospectus

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Americas Habitats
Capital Conservation Bank Project

FIGURE 3

SITE PLAN

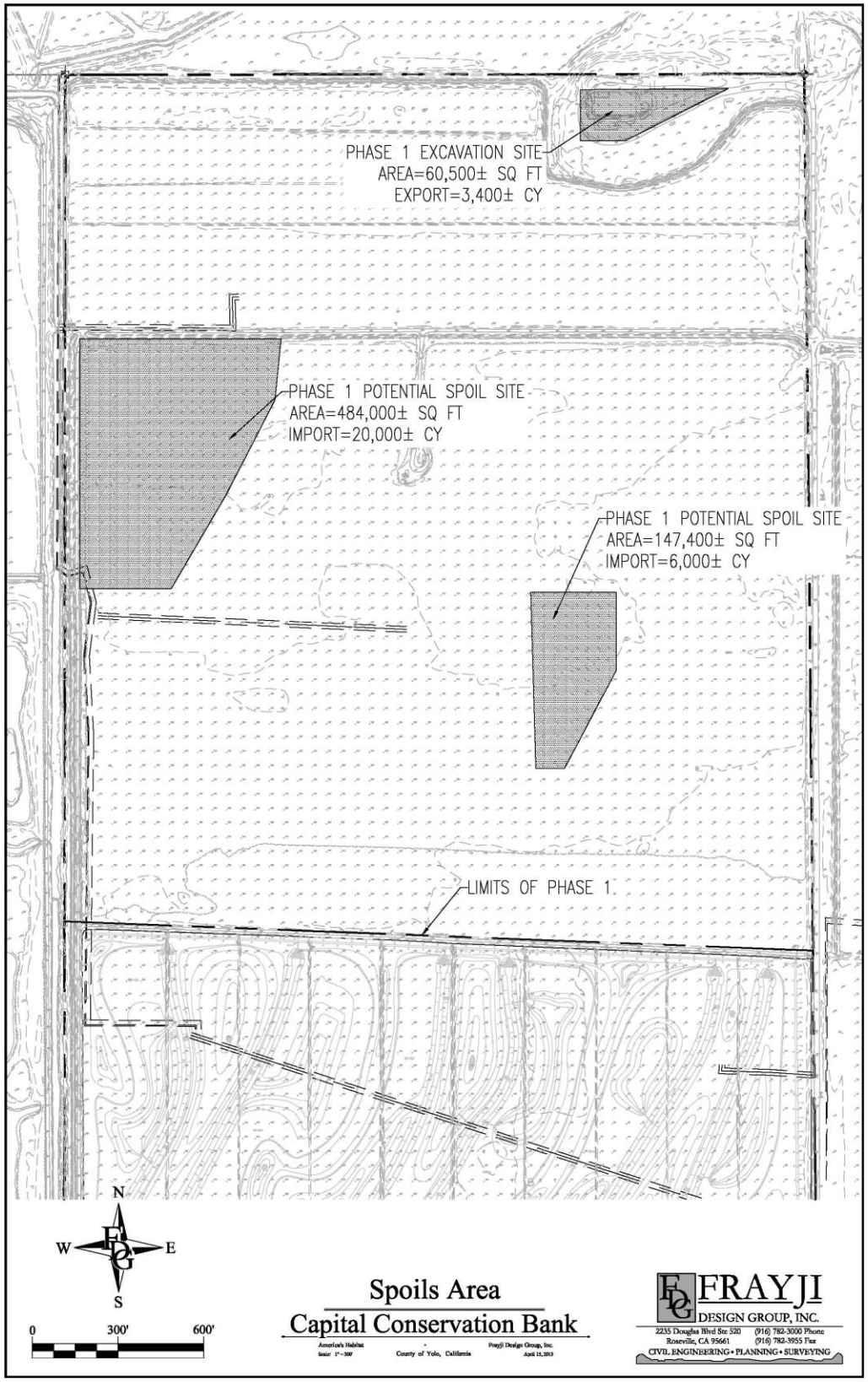
Phase I would take approximately 101 days to construct. Rough grading of the site would be accomplished with six to ten employees over 41 days and heavy equipment including an excavator, two tractors, and a water truck. Final grading would last for 55 days and would employ seven to twelve workers, using the same equipment noted above, in addition to a backhoe, a bobcat, and a skip loader. Planting and erosion control for Phase 1 would take the final 45 days, using six to ten employees, using the same equipment.

Grading for Phase I would involve approximately 247,000 cubic yards of cut and fill. A series of "spoils sites" have been designated on Phase 2 lands, in case the soil on Phase 1 does not shrink. However, if there is a normal subsidence and/or shrinkage, then Phase 1 cut and fill grading would balance on the Phase 1 site. If grading does not balance, up to approximately 22,600 cubic yards (cy^3) of spoils from Phase 1 could be placed in Phase 2 (see Figure 4). In addition, 2,400 cy^3 of soil generated by the grading of a small hill in Phase 2 would be placed in one of the spoils sites. A barn on a four-foot high pad located at the northeastern edge of the Phase 2 site is subject to an ongoing enforcement action initiated by the Central Valley Flood Protection Board (CVFPB, 2011). To resolve the enforcement action, the agency has ordered the applicant to remove the unpermitted barn and the imported fill that was used to create the pad by November 1, 2014 (CVFPB, 2011). No County permits for the proposed project will be issued by Yolo County until this enforcement action is resolved.

Phase 2 of the project would use roughly the same amount of employees and equipment, but construction would take a little longer, about 125 days. Grading for Phase II would involve an additional approximately 233,000 cubic years of balanced cut and fill.

The applicant has prepared an Interim Management Plan and a Long Term Specific Management Plan which outline the details of how the property will be maintained for the benefit of the giant garter snake. The two plans describe responsibilities that include the following:

- management and maintenance of canals, gates, pumps, flashboard risers, and similar water management infrastructure;
- management of wetland and upland vegetation to maintain habitat suitability for giant garter snake;
- maintenance of culverts and signage;
- trash removal and trespass control;
- invasive plant management;
  coordinating and overseeing all biological surveys of the CCB to be conducted by qualified personnel;
- monitoring wetland functions;
- evaluating the accumulation of dead vegetative matter (thatch) and recommending removal if needed;
- evaluating the presence of non-native (exotic) plant species and recommending appropriate management;
- conducting biological inspections and surveys and preparing reports;
- evaluating site conditions and recommending remedial actions to the Conservation Bank Manager, if necessary; and,
- assisting in reviewing or planning remedial actions and habitat restoration activities for the Conservation Bank.


PHASE 1 EXCAVATION SITE
AREA=60,500± SQ FT
EXPORT=3,400± CY
PHASE 1 POTENTIAL SPOIL SITE
AREA=484,000± SQ FT
IMPORT=20,000± CY
PHASE 1 POTENTIAL SPOIL SITE
AREA=147,400± SQ FT
IMPORT=6,000± CY
LIMITS OF PHASE 1
N
W
E
S
0
300'
600'
Spoils Area
Capital Conservation Bank
FRAYJI
DESIGN GROUP, INC.
2235 Douglas Blvd Ste 320 (916) 782-3000 Phone
Roseville, CA 95661 (916) 782-3955 Fax
CIVIL ENGINEERING • PLANNING • SURVEYING

The following technical studies were conducted to verify the condition and feasibility of the site, and hydrology impacts, of establishing a giant garter snake mitigation bank and conducting active restoration. Copies of these reports are available for review during normal business hours at the Yolo County Planning and Public Works Department:

- *Prospectus Capital Conservation Bank* (AECOM, February, 2011), which includes Existing Site Conditions; Bank Credits, Service Areas, and Development; Bank Ownership, Stewardship and Funding; License for Diversion and Use of Water; Biological Survey Report; Giant Garter Snake Habitat Analysis; and USACE Preliminary Jurisdictional Determination Letter.

- *Flood Conveyance Modeling-Phase 1 and Phase 2, Capital Conservation Bank* (cbec, Inc., June 6, 2011).

- *Capital Conservation Bank, Drainage Study Review* (Pacific Hydrologic Inc., July 18, 2011), peer review of the applicant's hydrology study prepared for Yolo County.

- *Bank Enabling Instrument, Capital Conservation Mitigation Bank* (draft, May 2008); draft Conservation Easement Deed Capital Conservation Bank (undated); Interim Management Security Analysis and Schedule; Endowment Fund Analysis and Schedule; Interim Management Plan; Long Term Management Plan; Phase I Environmental Site Assessment; Cultural Resources report.

Environmental Factors Potentially Affected

The environmental factors checked below would potentially be affected by this project, involving at least one impact that is a "Potentially Significant Impact" (before any proposed mitigation measures have been adopted) as indicated by the checklist on the following pages.

☐ Aesthetics	☒ Agricultural and Forest Resourc	☐ Air Quality
☒ Biological Resources	☒ Cultural Resources	☐ Geology / Soils
☐ Greenhouse Gas Emissions	☐ Hazards & Hazardous Materials	☐ Hydrology / Water Quality
☐ Land Use / Planning	☐ Mineral Resources	☐ Noise
☐ Population / Housing	☐ Public Services	☐ Recreation
☐ Transportation / Traffic	☐ Utilities / Service Systems	☐ Mandatory Findings of Significance

Determination

On the basis of this initial evaluation:

☐ I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.

☒ I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions to the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.

☐ I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.

☐ I find that the proposed project MAY have an impact on the environment that is "potentially significant" or "potentially significant unless mitigated" but at least one effect (1) has been adequately analyzed in an earlier document pursuant to applicable legal standards and (2) has been addressed by mitigation measures based on the earlier analysis, as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.

☐ I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier ENVIRONMENTAL IMPACT REPORT or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier ENVIRONMENTAL IMPACT REPORT or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the project, nothing further is required.

Eric Parfrey, Principal Planner

Planner's Signature | Date | Planner's Printed name

Purpose of this Initial Study

This Initial Study has been prepared consistent with CEQA Guideline Section 15063, to determine if the project as described herein may have a significant effect upon the environment.

Evaluation of Environmental Impacts

1. A brief explanation is required for all answers except "No Impact" answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A "No Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A "No Impact" answer should be explained if it is based on project-specific factors as well as general standards (e.g., the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).
2. All answers must take account of the whole action involved, including offsite as well as onsite, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.
3. Once the lead agency has determined that a particular physical impact may occur, the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. "Potentially Significant Impact" is appropriate if there is substantial evidence that an effect may be significant. If there are one or more "Potentially Significant Impact" entries when the determination is made, an EIR is required.
4. "Negative Declaration: Less than Significant with Mitigation Incorporated" applies when the incorporation of mitigation measures has reduced an effect from a "Potentially Significant Impact" to a "Less than significant Impact". The lead agency must describe the mitigation measures and briefly explain how they reduce the effect to a less-than-significant level. (Mitigation measures from Section XVII, "Earlier Analyses", may be cross-referenced.)
5. A determination that a "Less Than Significant Impact" would occur is appropriate when the project could create some identifiable impact, but the impact would be less than the threshold set by a performance standard or adopted policy. The initial study should describe the impact and state why it is found to be "less than significant."
6. Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration [Section 15063(c)(3)(D) of the CEQA Guidelines. Earlier analyses are discussed in Section XVII at the end of the checklist.
7. Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g., general plans, zoning ordinances). Reference to a previously prepared or outside document should, when appropriate, include a reference to the page or pages where the statement is substantiated.
8. Supporting Information Sources: A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.

I.	AESTHETICS.	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than significant Impact	No Impact
Would the project:					
a.	Have a substantial adverse effect on a scenic vista?	☐	☐	☐	☒
b.	Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings along a scenic highway?	☐	☐	☐	☒
c.	Substantially degrade the existing visual character or quality of the site and its surroundings?	☐	☐	☐	☒
d.	Create a new source of substantial light or glare that would adversely affect daytime or nighttime views in the area?	☐	☐	☐	☒

Discussion of Impacts

a) No Impact. The project site is not located within view of any designated scenic highways or vistas. Lands are flat and distant views are of buildings in downtown Sacramento to the east and the coastal mountains to the west.

b) No Impact. The proposed Project would not damage scenic resources. There are no scenic resources on or within view of the project site other than noted in (a), above. There are no buildings on the site, except for a barn.

c) No Impact. The proposed Project would not degrade the existing visual character or the quality of the site and its surroundings.

d) No Impact. The project does not include any lighting.

II.	AGRICULTURAL RESOURCES.	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
In determining whether impacts on agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation. Would the project:					
a.	Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	☐	☒	☐	☐
b.	Conflict with existing zoning for agricultural use or conflict with a Williamson Act contract?	☐	☐	☐	☒

II.	AGRICULTURAL RESOURCES.	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
c.	Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)) or timberland (as defined in Public Resources Code section 4526)?	☐	☐	☐	☒
d.	Result in the loss of forest land or conversion of forest land to non-forest use?	☐	☐	☐	☒
e.	Involve other changes in the existing environment which due to their location or nature, could result in conversion of farmland, to non-agricultural use or conversion of forest land to nonforest use?	☐	☐	☐	☒

Environmental Setting

The Yolo County General Plan designates land use on the project site as "Agriculture." The project site is zoned "Agricultural Preserve" (A-P) and the property is under a Williamson Act contract established in 1970.

The 320-acre project site previous supported rice production (now fallowed) in the Phase 1 southern field and is cultivated in corn production in the northern Phase 2 field. Previous uses have included farming of wheat, Sudan grass, rye grass, corn, and tomatoes.

The Soil Survey of Yolo County, California (Soil Conservation Service 1972) indicates that the primary soil on the project site is Capay clay, flooded (Cc). This a non-prime Class IV soil, with a Stroie Index of 34. These soils are poorly drained and are subject to flooding at least one year in three due to flood easements. According to the USDA, the Capay clay soils are suitable for summer-grown irrigated crops, field crops, and pasture, and dry farmed field crops.

Discussion of Impacts

a) Less than Significant Impact with Mitigation Incorporated. The conceptual site plan for the project would change the existing fallowed and planted agricultural fields to a mosaic of wetlands and uplands to create suitable habitat for the giant garter snake. In the first phase, approximately 78 acres of wetlands would be graded interspersed with 57 acres of mounded upland habitat. In the second phase, another 183 acres of wetland and upland habitat would be constructed

Two separate ordinances that apply to the project require the project to mitigate for the loss of agricultural lands.

Yolo County has an adopted Agricultural Conservation Easement Program (Section 8-2.2416 of the Yolo County Code) which requires mitigation for loss of agricultural lands at a ratio of one acre conserved through easement, for every acre converted from an agricultural to a non-agricultural use. The ordinance does not require any mitigation when there is a conversion of one agricultural use to another agricultural use allowed under the existing agricultural zoning. The ordinance states that conversion from agricultural use to habitat use is exempted from the mitigation requirements "so long as the restoration or conversion is incidental to or ancillary to the agricultural uses on the parcel." The existing agricultural uses of the property include previous

rice production (now fallowed) in the Phase 1 southern field and corn production in the northern Phase 2 field. The uses would be replaced with habitat restoration on 137 acres (Phase I) and ultimately, on 320 acres (Phase II). The two phases of the project will be required to mitigate for the loss of agricultural land under the ordinance because the main use of the land would become habitat and the primary use of existing rice production would be replaced.

In addition, the recently adopted Habitat Mitigation Ordinance (Chapter 10 of Title 10 of the Yolo County Code) requires a finding that habitat projects that involve "any conversion of farmland to habitat or other non-agricultural uses will be mitigated in accordance with Yolo County Code Section 8-2.2416 (notwithstanding anything to the contrary set forth therein regarding its application to habitat projects) or, subject to the approval of the Board of Supervisors, that the applicant will implement an alternative approach to addressing the conversion of farmland that provides an equal or greater level of mitigation."

Mitigation Measure AG-1:

The applicant shall mitigate for the loss of agricultural land for each individual phase of the project according to the Agricultural Conservation Easement Program (Section 8-2.2416 of the Yolo County Code), or shall implement alternative mitigation subject to the approval of the Board of Supervisors. The applicant may acquire agricultural easements to mitigate for the first and second phases of the project by placing other portions of his family's lands under easement, or purchase easements from other owners in the area, as allowed under the ordinance.

b) No Impact. The project site is under a Williamson Act contract established in 1970. The California Land Conservation Act of 1965, commonly referred to as the Williamson Act, enables local governments to enter into contracts with private landowners for the purpose of restricting specific parcels of land to agricultural or, if certain criteria are met, "open space" as defined in Government Code Section 51201(o). The Williamson Act authorizes the Board of Supervisors to evaluate whether uses proposed as part of the Project qualify under Section 51201(o). Perhaps most relevant is Government Code Section 51201(o)(2), which defines "open space use" as including a "wildlife habitat area" as defined in turn by Section 51201(j). Subsection (j) states that a "wildlife habitat area is a land or water area designated by a board or council after consulting with and considering the recommendation of the Department of Fish and Game, as an area of importance for the protection or enhancement of the wildlife resources of the state."

As part of the planning and environmental review process, County staff will seek a recommendation from the Department of Fish and Wildlife on this issue. The Department's recommendation will then be presented to the Board for consideration as it decides whether to approve the project, including a new Williamson Act Contract that specifically authorizes open space uses. If approved, such a contract will eliminate any conflict with the Williamson Act and the existing A-P zoning for the property.

Finally, in some instances, a proposal such as the project may have the potential to encourage other landowners with Williamson Act contracts in the project vicinity to also convert their properties to conservation banks or other habitat uses. This does not, however, present a conflict with zoning or existing Williamson Act contracts so long as similar steps are taken. The particular circumstances of this project also minimize such concerns, as the project site is bordered on three sides by wetlands already (the existing conservation bank and duck clubs). The fourth contiguous property is owned by the applicant's family and is planted in rice. It is not proposed for conversion in the foreseeable future.

For all of the foregoing reasons, the project does not conflict with existing agricultural zoning or an existing Williamson Act contract, as the contract itself will be amended and/or replaced as part of project approval and the Williamson Act expressly authorizes certain open space uses.

c) No Impact. The project would not *c*onflict with existing zoning for, or cause rezoning of, any forest land.

d) No Impact. The project would not result in the loss of any forest land or conversion of forest land to non-forest use.

e) No Impact. The project is consistent with the General Plan and zoning designations and does not involve any other changes that could result in the conversion of additional farmland or forest land to non-agricultural or non-forest uses.

III.	**AIR QUALITY.**	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than significant Impact	No Impact
Where applicable, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:					
a.	Conflict with or obstruct implementation of the applicable air quality plan?	☐	☐	☒	☐
b.	Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	☐	☒	☐	☐
c.	Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is a nonattainment area for an applicable federal or state ambient air quality standard (including releasing emissions that exceed quantitative thresholds for ozone precursors)?	☐	☒	☐	☐
d.	Expose sensitive receptors to substantial pollutant concentrations?	☐	☐	☐	☒
e.	Create objectionable odors affecting a substantial number of people?	☐	☐	☐	☒

Environmental Setting

The project site is within the Yolo-Solano Air Quality Management District (YSAQMD), and the Sacramento Valley Air Basin regulates air quality conditions within Yolo County. Yolo County is classified as a "non-attainment" area for several air pollutants, including ozone (O_3) and particulate matter 10 microns or less in diameter (PM_{10}) for both federal and State standards, and is classified as a "moderate maintenance area" for carbon monoxide (CO) by the State. The County is also designated by the federal government as "partial non-attainment" for the particulate matter less than 2.5 microns in size ($PM_{2.5}$) standard.

Development projects are most likely to violate an air quality plan or standard, or contribute substantially to an existing or project air quality violation through generation of vehicle trips.

Construction of the proposed project would require the use of large grading machinery including graders, scrapers, compacters, and water trucks. Phase I would take approximately 101 days to construct. Rough grading of the site would be accomplished with six to ten employees over 41 days and heavy equipment including an excavator, two tractors, and a water truck. Final grading would last for 55 days and would employ seven to twelve workers, using the same equipment noted above, in addition to a backhoe, a bobcat, and a skip loader. Planting and erosion control for Phase 1 would take the final 45 days, using six to ten employees, using the same equipment.

Phase 2 of the project would use roughly the same amount of employees and equipment, but construction would take a little longer, about 125 days.

Thus, the combined air quality construction impacts would be from dust and particulate matter generate due to grading, planting and erosion control activities over a roughly 7.5 month (226 days) period, plus other emissions generated over the same period by operation of the diesel-powered equipment and commuting to the site by six to twelve workers.

The YSAQMD sets threshold levels for use in evaluating the significance of criteria air pollutant emissions from project-related mobile and area sources in the *Handbook for Assessing and Mitigating Air Quality Impacts* (YSAQMD 2007). The handbook identifies quantitative and qualitative long-term significance thresholds for use in evaluating the significance of criteria air pollutant emissions from project-related mobile and area sources. These thresholds include:

- Reactive Organic Gases (ROG) 10 tons per year (approx. 55 pounds per day)
- Oxides of Nitrogen (NOx) 10 tons per year (approx. 55 pounds per day)
- Particulate Matter (PM_{10}) 80 pounds per day (approx. 2,400 pounds per month)
- Carbon Monoxide (CO) Violation of State ambient air quality standard

Discussion of Impacts

a) Less than Significant Impact. A project is deemed inconsistent with air quality plans if it would result in population and/or employment growth that exceeds growth estimates included in the applicable air quality plan. The proposed project would not result in permanent population or employment growth, as it involves the short-term construction of wetlands and wildlife habitat and periodic monitoring thereafter. No significant long-term operational air quality emissions are anticipated to occur with implementation of the proposed project. The habitat lands will be maintained according to an approved management that details water management and, vegetation control that would ensure there would be no significant increase in emissions compared with the baseline (farming).

b) Less than Significant with Mitigation Incorporated. Potential short-term impacts may occur from equipment exhaust emissions and particulate materials (dust) generated during excavation and grading. As noted above, the combined air quality construction impacts would be generated over a roughly 7.5 month (226 days) period, plus other emissions generated over the same period by operation of the diesel-powered equipment and commuting to the site by six to twelve workers. It is assumed that Phase 1 and 2 construction impacts will not occur during the same year, since Phase 2 is dependent on the biological success of Phase 1.

Grading for Phase 1 would involve approximately 247,000 cubic years of cut and fill. Phase 1 by itself may not balance and could need to export up to approximately 22,600 cubic yards of soils to Phase 2.

Phase 2 of the project would use roughly the same amount of employees and equipment, but construction would take a little longer, about 125 days. Grading for Phase 2 would involve an additional approximately 233,000 cubic years of balanced cut and fill.

Air emissions generated by heavy equipment operation, and employee commuting, for each of the two phases is expected to be below the thresholds set by the YSAQMD, and will not contribute significantly to local violations of regulatory standards. However, grading could produce particulate matter (PM) emissions in excess of YSAQMD standards. A calculation of potential PM_{10} emissions was prepared according to methodology outlined in U.S. Environmental Protection Agency and California South Coast Air Quality Management District guides (USEPA, 1999; CSCAQMD, 1996; WRAP, 2006). Factors of 0.011 ton/month plus 0.059 ton/1,000 cubic yards for on-site cut/fill and 0.22 ton/1,000 cubic yards for off-site cut/fill were used from the project description. The projected amount of grading for Phase 1 of 137 acres is estimated to generate 24.36 tons of PM_{10} emissions, below the YSAQMD threshold standard of 80 pounds per day. The projected amount of grading for Phase 2 of 183 acres is estimated to generate 22.00 tons of PM_{10} emissions, also below the YSAQMD threshold standard of 80 pounds per day

The following standard measures to reduce construction dust and construction equipment emissions are recommended by the YSAQMD and will ensure that potential impacts remain at a less than significant level:

Mitigation Measure AQ-1:

a. *Water active construction sites at least twice daily. Frequency should be based on the type of operation, soil, and wind exposure.*

b. *Haul trucks shall maintain at least 2 feet of freeboard.*

c. *Cover all trucks hauling dirt, sand, or loose materials.*

d. *Apply non-toxic binders (e.g., latex acrylic copolymer) to exposed areas after cut and fill operations and hydroseed area.*

e. *Apply chemical soil stabilizers on inactive construction areas (disturbed lands within construction projects that are unused for at least four consecutive days).*

f. *Plant vegetative ground cover in disturbed areas as soon as possible.*

g. *Cover inactive storage piles.*

h. *Treat accesses to a distance of 100 feet from the paved road with a 6- to 12-inch layer of wood chips or mulch, or a 6-inch layer of gravel.*

Mitigation Measure AQ-2:

a. *Construction equipment exhaust emissions shall not exceed District Rule 2-11 Visible Emission limitations.*

b. *Construction equipment shall minimize idling time to 10 minutes or less.*

c. *The primary contractor shall submit to the District a comprehensive inventory (i.e., make, model, year, emission rating) of all the heavy-duty off-road equipment (50 horsepower of greater) that will be used an aggregate of 40 or more hours for the construction project. District personnel, with assistance from the California Air Resources Board, will conduct initial Visible Emission Evaluations of all heavy duty equipment on the inventory list.*

d. An enforcement plan shall be established to weekly evaluate project-related on- and off-road heavy-duty vehicle engine emission opacities, using standards as defined in California Code of Regulations, Title 13, Sections 2180 - 2194. An Environmental Coordinator, CARB-certified to perform Visible Emissions Evaluations (VEE), shall routinely evaluate project related off-road and heavy duty on-road equipment emissions for compliance with this requirement. Operators of vehicles and equipment found to exceed opacity limits will be notified and the equipment must be repaired within 72 hours. Construction contracts shall stipulate that at least 20% of the heavy-duty off-road equipment included in the inventory be powered by CARB-certified off-road engines, as follows:

175 hp - 750 hp 1996 and newer engines

100 hp - 174 hp 1997 and newer engines

50 hp - 99 hp 1998 and newer engines

In lieu of or in addition to this requirement, other measures may be used to reduce particulate matter and nitrogen oxide emissions from project construction through the use of emulsified diesel fuel and or particulate matter traps. These alternative measures, if proposed, shall be developed in consultation with District staff.

c) Less than Significant with Mitigation Incorporated. Development projects are considered cumulatively significant by the YSAQMD if: (1) the project requires a change in the existing land use designation (i.e., general plan amendment, rezone); and (2) projected emissions (ROG, NOx, or PM10) of the project are greater than the emissions anticipated for the site if developed under the existing land use designation. The project does not require a general plan amendment or rezone. The proposed project would only result in temporary impacts to air quality during construction. Temporary construction emissions may contribute to levels that exceed air quality standards on a cumulative basis, contributing to existing nonattainment conditions, when considered along with other construction projects. By implementing the above-identified Mitigation Measures AQ-1 and AQ-2, construction-related emissions for the proposed project that would have had a potentially significant impact would be reduced to a less-than-significant level.

d) No Impact. The proposed project is located in a rural agricultural area and there are no sensitive receptors in the vicinity. The proposed grading activities are not expected to generate pollutant concentrations at a sufficient level to be noticed by any rural residences, particularly given the agricultural nature of the project area and its location in an undeveloped floodway.

e) Less than Significant Impact. The proposed project would be constructed using diesel-powered heavy equipment. Diesel exhaust from construction activities may generate temporary odors while project construction is under way. However, there are no sensitive receptors of substantial numbers of people within the vicinity of the project.

IV.	BIOLOGICAL RESOURCES.	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than significant Impact	No Impact
Would the project:					
a.	Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	☐	☒	☐	☐
b.	Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	☐	☐	☒	☐
	Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marshes, vernal pools, coastal wetlands, etc.) through direct removal, filling, hydrological interruption, or other means?	☐	☐	☒	☐
d.	Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	☐	☐	☒	☐
e.	Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	☐	☐	☐	☒
f.	Conflict with the provisions of an adopted habitat conservation plan, natural community conservation plan, or other approved local, regional, or state habitat conservation plan?	☐	☐	☐	☒

Environmental Setting

The following information and analysis is summarized from giant garter snake (*Thamnopsis gigas couchi*) surveys conducted by Eric Hansen in 2009 (Hansen, 2009) and from special-status species investigations conducted by AECOM for the applicant on April 15, 2010 and June 22, 2010 (AECOM, 2010). Copies of the two biological reports, part of the prospectus for the project, are available for review at the Yolo County Planning and Public Works Department during normal business hours. The AECOM wildlife investigations included a habitat assessment for Swainson's hawk (*Buteo swainsonii*) and a reconnaissance-level survey for other special-status wildlife, with the exception of the giant garter snake. Surveys for all potentially-occurring species of special-status plants were conducted according to California Department of Fish and Wildlife (DFW) protocols.

In general, the Hansen surveys found evidence of GGS and the AECOM surveys concluded that the proposed mitigation bank site has little to no potential to support other special-status species (with the exception of giant garter snake) in its current condition due to the lack of natural habitats and regular disturbances from farming activities to the limited habitat that does exist. Special-status wildlife that were observed by AECOM include song sparrow ("Modesto" population) (*Melospiza melodia mailliardi* and tri-colored blackbird (*Agelaius tricolor*). Swainson's hawk was not observed on the site by AECOM but have been observed by the applicant flying over the property during the spring and summer months (D. Smith, 2010). Other species of special-status wildlife may occur on the site, but the site is not expected to significantly contribute to the life-history requirements of these species. Observations are expected to be limited to incidental observations such as species flying over the site, moving through the site, or opportunistic foraging. No species of special-status plants were observed on the site, and the site has limited to no potential to support any plant species considered to be rare, threatened, or endangered by the California Native Plant Society, DFW, or other regulatory agencies.

Discussion of Impacts

a) Less than Significant with Mitigation Incorporated. The applicant proposes to construct 78 acres of wetland habitat and 57 acres of mounded upland habitat as part of Phase 1, and another 183 acres of wetlands and upland habitat in Phase 2. Several sensitive species could be affected, as described below.

In addition to potential on-site impacts on the 320 acres of the project, the analysis below considers impacts related to harvesting of plants (tules) on other portions of the applicant's property for transplanting on the project site.

Giant Garter Snake

Surveys of the site for the giant garter snake (*Thamnopsis gigas*) (GGS), were conducted by Eric Hansen from July 1 through September 11, 2009 (Hansen, 2009). The sampling approach was reconnaissance-based, emphasizing visual encounter surveys to detect GGS. One male GGS was captured during the preliminary visit on July 1, 2009, satisfying the primary goal determining GGS presence on the site. Combined with this sighting, local habitat conditions and proximity to recent observations of GGS upstream within the Yolo Bypass and to historic populations downstream suggest that colonization of a constructed habitat bank is feasible.

Construction of the project has the potential to affect any giant garter snakes that currently occupy the site. Implementation of standard avoidance measures recommended by the U.S. Fish and Wildlife Service have been incorporated in Mitigation Measure BIO-1, below.

The applicant has prepared an Interim Management Plan and a Long Term Specific Management Plan which outline the details of how the property will be maintained for the benefit of the giant garter snake. The two plans describe responsibilities that include, for example, management and maintenance of canals, gates, pumps, flashboard risers, and similar water management infrastructure; and management of wetland and upland vegetation to maintain habitat suitability for giant garter snake.

Other Special-Status Wildlife Surveys

Special-status wildlife surveys conducted by AECOM for species other than giant garter snake included a focused survey for Swainson's hawk breeding habitat as well as a general survey for other species of special-status wildlife potentially found on the site. Surveys were conducted by

AECOM Senior Wildlife Biologist Thomas Leeman on April 15, 2010. Additional surveys were previously conducted by other consultants, and the results of their surveys have been incorporated into this report by reference (Sycamore Environmental 2006, Wiemeyer Ecological Sciences 2009). Because the site was determined to have the potential to support few to no special-status wildlife species during the initial April 15 field survey, subsequent surveys during the remainder of the spring and into the summer of 2010 were deemed unnecessary. Results of the April survey are described below.

Swainson's Hawk

Surveys for Swainson's hawk were conducted according to published protocols (Swainson's Hawk TAC, 2000). In brief, this protocol requires surveys at various times during the hawk's nesting season (generally April through July in Yolo County) to determine if hawks are utilizing nesting trees on or within ½ mile of a proposed project site. However, nesting opportunities for Swainson's hawk are limited to non-existent on the site and within ½ mile of the site because these areas do not contain suitable nesting trees. The lack of suitable nesting trees was confirmed during the April field survey, and further surveys during the remainder of the spring and summer were deemed unnecessary.

Swainson's hawks usually nest in large native trees (e.g., valley oak, cottonwood, walnut, and willow), and occasionally in nonnative trees (e.g., eucalyptus and ornamental redwoods) (Estep, 2008). Typical nest tree height averages approximately 50 feet, and nests are usually constructed high in the tree, usually within the top one-third (Anderson et al, 2007). Nest trees are usually located in open riparian habitat, in scattered trees or small groves. Trees of this size are found in scattered locations within the Yolo Bypass and along the Toe Drain (located approximately 1.5 miles east of the site), but no trees of this size are located on or near the CCB site. The closest Swainson's hawk California Natural Diversity Data Base record (CNDDB, 2010) is found in Sacramento County, 1.8 miles southeast of the site, and there are 99 Swainson's hawk nest records that have been active in the last 5 years within 10 miles of the site.

Similarly, high-quality foraging habitat is limited in the vicinity of the site. The majority of the site and immediately surrounding areas are actively farmed rice, fallowed agricultural land, or wetlands. Rice and wetlands provide little to no foraging value due to poor accessibility to Swainson's hawk and relatively low prey populations. Fallowed agricultural land can support a constant prey base, but the vegetation structure (typically characterized by tall weeds) inhibits effective Swainson's hawk foraging (Estep, 2008). High-value foraging habitat is characterized by low vegetative cover and high prey densities; e.g., hay fields, grain crops, and lightly grazed pasturelands. Row crops such as beets and tomatoes can also provide these habitat characteristics, particularly following harvesting and discing. Hay fields, grain crops, and pasture are found within surrounding portions of the Yolo Bypass to the west, north, and south, and these areas are expected to provide suitable foraging habitat. Swainson's hawk are regularly observed flying over the site during the spring and summer months (D. Smith, pers. com.).

Other Wildlife Species

The California Natural Diversity Database records ten occurrences of special-status wildlife species within five miles of the site. The invertebrates are all associated with vernal pools. Because there is no vernal pool habitat at the proposed bank site, these species would not occur at the site. Giant garter snake was identified on and adjacent to the site, and is the subject of a separate report (Hansen, 2009). Breeding habitat for Swainson's hawk and white-tailed kite does not exist due to the lack of suitable nest trees, as described above. Suitable breeding habitat for burrowing owl, such as ground squirrel burrows, is limited due to the lack of ground squirrel

activity at the site and the frequent ground disturbance caused by farming activities. Grasshopper sparrow could nest in fallowed portions of the site; although, this species prefers relatively short grassland vegetation with scattered shrubs. Fallowed areas on the site are dominated by tall weeds such as Johnson grass (*Sorghum halapense*) and black mustard (*Brassica nigra*) that would only provide marginal habitat for grasshopper sparrow.

One special status bird species, song sparrow, was documented as present on the site during the April survey even though it was not previously documented in the CNDDB. The site is located within the range of the Modesto population of song sparrow (a California Species of Special Concern), which breeds in wetland and riparian habitats in the Sacramento and northern San Joaquin valleys. Wetland vegetation that could be used by this species as marginal-quality breeding habitat was present in narrow bands in agricultural canals and drains within and adjacent to the site. The song sparrows were observed in the very narrow bands of wetland vegetation along the canals at the northern end of Phase 2; these areas would not be disturbed as part of the project because they would remain in their current condition to function as water supply and drainage channels for the constructed giant garter snake habitats. Overall, construction of the proposed project would improve habitat for this species since the wetlands would provide vastly superior breeding and foraging habitat for the species.

Additionally, a small mixed flock of tricolored and red-winged blackbirds (less than 50 birds total) was observed in a drainage ditch on the northern boundary of the Phase 2 project footprint by AECOM on June 22, 2010. The closest known tricolored blackbird (a California Species of Special Concern) breeding colony is about ten miles north at the Yolo Basin Wildlife Area (Yolo Basin Foundation, 2009); however, small colonies may breed in suitable habitat at unreported locations elsewhere in Yolo County, including at the Pope Ranch Conservation Bank adjacent to the project site.

Other California Species of Special Concern that may use the site, but that are not expected to be found here, include: western pond turtle, northern harrier, short-eared owl, white-faced ibis, and loggerhead shrike.

Special-Status Plants

Based on a search of the California Natural Diversity Database and California Native Plant Society (CNPS) Inventory of Rare, Threatened, and Endangered Plant Species, 13 special-status plant species may potentially occur on the site. A rare plant survey was conducted on June 22, 2010 by AECOM biologists Ellen Pimentel and Matt Wacker according to the California Department of Fish and Wildlife's (DFW) Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities (DFG, 2009). Meandering transects were walked throughout those portions of the study area with the potential to support sensitive plants. Specific habitats that were targeted included ditches, canals, and seasonal wetlands.

No special-status plant species were observed, and none are expected to be found on the site due to the lack of natural habitats and frequent disturbances related to farming. Habitat improvements associated with planned habitat restoration activities may improve habitat conditions for many of these species; however, the potential for these species to be found on the site in the future is limited by the lack of immediately adjacent populations and the low probability that the site could be colonized by the dispersal of individuals from more distant populations.

In addition to potential on-site impacts on the 320 acres of the project, there is a potential impact related to harvesting of plants (tules) on other portions of the applicant's property for transplanting on the project site. Mitigation Measure BIO-4 addresses the impact.

Mitigation Measure BIO-1:

(a) To avoid and minimize take of giant garter snakes, the project shall incorporate the following measures consistent with terms and conditions listed in the programmatic formal consultation for USACE permitted projects (USFWS, 1997) throughout the construction of the project and operation and maintenance of the proposed project.

- *Ground-disturbing activity within 200 feet of potential giant garter snake aquatic habitat will be conducted between May 1 and October 1.*

- *Dewatered habitat will be allowed to remain dry for 15 consecutive days after April 15 and prior to excavation or filling of the dewatered habitat.*

- *All construction personnel will participate in a USFWS-approved worker environmental awareness program that will address the life history of the giant garter snake; the importance of irrigation canals, marshes, wetlands, and seasonally flooded areas such as rice fields, to the giant garter snake; and, the terms and conditions of the biological opinion. Proof of training will be submitted to the Sacramento Fish and Wildlife Office.*

- *No more than two days prior to the commencement of construction activities, a Service-approved biologist shall inspect the site for burrows providing potential refuge for giant garter snakes. All burrows shall be individually marked to identify them as environmentally sensitive areas (ESAs). High visibility fencing will be erected between the ESAs and the active work area to protect them from encroachment by personnel and equipment. Fencing will be established at least 20 feet from the edge of the ESAs. The fencing shall be inspected before the start of each work day and maintained by the project proponents until the construction has proceeded for at least five days, providing snakes with an opportunity to vacate the work area. After five days the fencing will be removed and the burrows will be eliminated under the supervision of the monitoring biologist. The project area shall be re-inspected by the monitoring biologist whenever a lapse in construction activity of two weeks or greater has occurred.*

- *The project site will be inspected by a qualified monitoring biologist approved by USFWS within 24 hours prior to the commencement of construction activities. A field report form documenting the monitoring effort will be provided to the service within 24 hours of start of construction activities. The monitoring biologist will be available thereafter for consultation if a snake is encountered during construction activities, and the biologist shall have the authority to stop construction activities until appropriate corrective measures have been completed or until it has been determined that the snake will not be harmed. Snakes encountered will be allowed to move away from the construction activities on their own. Capture or relocation of trapped or injured giant garter snakes will only be attempted by individuals with a current ESA Section 10(a)(l)(A) recovery permit. The monitoring biologist will immediately report any incidental take to USFWS by telephone and written letter addressed to the chief, Endangered Species*

Division, within 1 working day. The action area will also be re-inspected whenever a lapse in construction activity of 2 weeks or greater has occurred.

- *Clearing of wetland vegetation will be confined to the smallest area necessary to excavate the canal banks and install field drains or culverts and replace native fill. Sediment excavation will be accomplished using equipment (i.e., a hydraulic excavator) from the top of the bank to minimize impacts to giant garter snake habitat.*

- *Heavy equipment moving to and from the project site will be restricted to established roadways.*

(b) Additional measures that will be implemented to avoid and minimize take of giant garter snakes include the following.

- *All vehicle traffic on access roads in the action area shall observe a speed limit of 10 mph to minimize the potential for vehicles to run over giant garter snakes basking on access roads. The speed limit will be posted throughout the project site.*

- *Upland vegetation management will not occur more frequently than once every 2 years.*

- *Livestock used for vegetation management will be limited to sheep or goats. All wetlands and canals will be fenced with temporary electric fencing during any livestock grazing to prevent unintended trampling of canal banks, disturbance to wetlands, or grazing of wetland vegetation. Livestock grazing will be limited to May 1 through October 1. Livestock grazing using goats or sheep only will be the preferred method of upland vegetation management.*

- *Vegetation will be mowed to a height of not less than 6 inches to minimize the potential for giant garter snake injury. Mowing will be limited to May 1 to October 1.*

- *Mowing will be limited to hand held equipment such as weed eaters or similar equipment. Mowing using tractors or similar large equipment will not be permitted.*

- *Excavated sediment will be removed from the project site and re-used on adjacent areas, outside the project boundary to avoid impacts to giant garter snake habitat.*

<u>Mitigation Measure BIO-2:</u>

(a) The applicant shall comply with all Conditions of Approval, avoidance measures, and terms and conditions set forth in the required federal and State permits issued for the project including the U.S. Fish and Wildlife Service and California Department of Fish and Wildlife.

(b) The applicant shall set construction limits on the plans, and on the site, that do not encroach on preserved wetlands or other water features. Preserved aquatic

resources and riparian habitat shall be marked on the construction drawings. If needed, a visual or physical barrier will be installed along the perimeter of these features in order to avoid disturbance.

(c) Prior, during, and after grading and construction activities for the project, qualified biologist(s) or restoration ecologist(s) shall monitor construction activities in areas where wetlands and Special Status wildlife and plant species could be affected. The biologist(s) shall assist the construction crew, as needed, to comply with all project implementation restrictions and guidelines. The biologist(s) shall attend pre-construction meetings and conduct environmental trainings regarding the location of wetlands or other water features, as well as other sensitive resources. In addition, the biologist(s) shall be responsible for ensuring that the contractor maintains the staked and flagged perimeters of the construction area and staging areas adjacent to sensitive biological resources. The biologist(s) shall be on site during all construction activity with the authority to temporarily stop all construction, if violations of any of the measures or conditions are observed. If construction is stopped, representatives of the appropriate agencies, including Yolo County Planning and Public Works, shall be immediately notified.

(d) The applicant shall provide periodic progress reports to the Planning and Public Works Department during construction to document compliance with these mitigation measures and conditions required by other agencies. The applicant shall also provide documentation of the constructed project to the Planning and Public Works Department within thirty days of project completion. Documentation included in the progress reports and the completion notice may include, but shall not be limited to, on-site reports from supervisors, biologists, and other applicant representatives, surveyed elevations, photographs, or other materials sufficient to provide a record of condition compliance and constructed as-built conditions.

Mitigation Measure BIO-3:

Prior to any site grading or construction activity in both the breeding and non-breeding season, the applicant shall conduct burrowing owl surveys in conformance with CDFG burrowing owl recommendations (CDFG, 2012). If burrowing owls are detected during preconstruction surveys, the applicant shall implement the following mitigation measures, consistent with CDFG recommendations:

(a) Avoid occupied burrows during the burrowing owl breeding season, February 1 through August 31.

(b) Prior to this breeding season, September 1 through January 31, occupied burrows should be avoided. If avoidance is not possible, owls may be evicted, and the applicant must provide compensation for loss of burrows per CDFG standards.

Mitigation Measure BIO-4:

Harvesting of any native plant materials such as tules (Scirpus acutus) from other portions of the applicant's property for transplanting on the project site shall be accomplished by hand using shovels. The harvesting shall be accompanied by a

biological monitor to ensure that no jurisdictional wetlands or sensitive species are affected.

b) and c) Less than Significant Impact with Mitigation Incorporated. The applicant's consultant, AECOM, prepared a Delineation of Waters of the United States for the 320-acre site and submitted it in August, 2010 to the U.S. Corps of Engineers for verification. The Corps concurred with the delineation that approximately 174 acres of irrigated wetlands and other water bodies within the survey area may be jurisdictional "waters of the United States" (USACE, 2010). The potential 174 acres of jurisdictional wetlands are present primarily within the Phase 1 portion of the larger 320-acre site.

Mitigation Measure BIO-5:

Implement Mitigation Measure BIO-2.

d) Less than Significant Impact. Construction of the project could temporarily disrupt use of the project site by local wildlife; however, any disruption would be temporary. The project would not impact migratory patterns of any species.

e) No Impact. The proposed project is a wetlands and wildlife refuge. The proposed project would not conflict with any local policies or ordinances protecting biological resources.

f) No Impact. The Yolo County Habitat Conservation Plan (HCP)/Natural Communities Conservation Plan (NCCP) is under development with an anticipated adoption sometime in 2015. The proposed project would not conflict with this HCP/NCCP or any conservation plan protecting biological resources, but would help to reach conservation goals for the giant garter snake.

V.	CULTURAL RESOURCES.	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than significant Impact	No Impact
Would the project:					
a.	Cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5?	☐	☐	☐	☒
b.	Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5?	☐	☒	☐	☐
c.	Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	☐	☒	☐	☐
d.	Disturb any human remains, including those interred outside of formal cemeteries?	☐	☒	☐	☐

Environmental Setting

A Cultural Resources Report has been prepared by the applicant (AECOM, 2011). A literature search was performed and the entire 137-acre Phase 1 portion of the project site subjected to an intensive archeological inspection using 30 meter parallel pedestrian transects in May, 2010. No

evidence of cultural resources was found during the field investigation. In addition, the report concludes, because of the deep sediment loads that have been deposited as a result of historic era flooding, any cultural materials that may have been present would most likely be deeply buried and would not be impacted by t he project.

Discussion of Impacts

a) No Impact. No historical properties exist on the site; the only structure is a barn that was recently constructed. Therefore no historical properties will be affected by the restoration activities on the site.

b) Less than Significant Impact with Mitigation Incorporated. No cultural resources are known or suspected to occur on the project site.

Phase 1 has been surveyed and no cultural resources were identified. However, the Phase 2 area has not been surveyed. If the project proceeds to Phase 2, a detailed survey will be required prior to issuance of a grading permit for Phase 2 construction. In addition. a limited survey will be required to ensure that any small portion of the Phase 2 site that is used for fill for Phase 1 will not impact any resources.

Mitigation Measure CUL-1:

(a) Prior to issuance of any grading permit(s) by Yolo County for Phase 2, the applicant shall submit a cultural resources survey or other evidence that indicates the probable lack of resources for the Phase 2 area, including plans to mitigate any potential impacts to uncovered resources or remains if they should be encountered during grading.

(b) Prior to the issuance of any grading permit for Phase 1 that includes any portion of the Phase 2 area (such as taking fill for Phase 1), a similar report shall be completed for that portion of Phase 2.

c) Less than Significant Impact with Mitigation Incorporated. No paleontological resources are known or suspected and no unique geologic features exist on the project site. However, no cultural resources survey has yet been completed for Phase 2.

Mitigation Measure CUL-2:

Implement Mitigation Measure CUL-1.

d) Less than Significant Impact with Mitigation Incorporated. No human remains are known or predicted to exist in the project area. However, the potential exists during construction to uncover previously unidentified resources. Any development that uncovers cultural resources is required to follow procedures and recommendations as set forth in the CEQA Guidelines, Section 15064.5

Mitigation Measure CUL-3:

(a) Implement Mitigation Measure CUL-1.

(b) Section 7050.5 of the California Health and Safety Code states that, when human remains are discovered, no further site disturbance shall occur until the County coroner has determined that the remains are not subject to the provisions of Section 27491 of the Government Code or any other related provisions of law concerning investigation of the circumstances, manner and cause of any death, and the recommendations concerning the treatment and disposition of the human remains have been made to the person responsible for the excavation, in the manner provided in Section 5097.98 of the Public

Resources Code. If the coroner determines that the remains are not subject to his or her authority and the remains are recognized to be those of a Native American, the coroner shall contact the Native American Heritage Commission within 24 hours.

VI.	GEOLOGY AND SOILS.	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than significant Impact	No Impact
Would the project:					
a.	Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:				
	1. Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	☐	☐	☐	☒
	2. Strong seismic groundshaking?	☐	☐	☐	☒
	3. Seismic-related ground failure, including liquefaction?	☐	☐	☐	☒
	4. Landslides?	☐	☐	☐	☒
b.	Result in substantial soil erosion or the loss of topsoil?	☐	☐	☒	☐
c.	Be located on a geologic unit or soil that is unstable or that would become unstable as a result of the project and potentially result in an onsite or offsite landslide, lateral spreading, subsidence, liquefaction, or collapse?	☐	☐	☐	☒
d.	Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	☐	☐	☐	☒
e.	Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems in areas where sewers are not available for the disposal of wastewater?	☐	☐	☐	☒

Discussion of Impacts

a) No Impact. There are no known faults located in the immediate vicinity of the project area (California Department of Conservation, 2010), and the seismic ground-shaking hazard in the project area is low. The project does not propose to construct any structures. The project site has gentle topography and no potential for major landslides. Furthermore, the proposed project does not include the construction of any structures and would not increase use by people.

b) Less than Significant Impact. The Soil Survey of Yolo County, California (Soil Conservation Service 1972) indicates that the primary soil on the project site is Capay clay, flooded (Cc). This is a non-prime Class IV soil with an erosion hazard of "none to slight." Grading disturbance

caused by the project has a less than significant potential to increase erosion and sedimentation above preconstruction levels.

As a standard condition of project approval, the applicant will be required to prepare and implement a Stormwater Pollution Prevention Plan (SWPPP). The SWPPP shall address erosion, stormwater runoff, sedimentation, and other construction-related pollutants during project construction and shall ensure all areas disturbed during construction are permanently stabilized. Implementation of a SWPPP would substantially minimize the potential for project-related erosion and associated adverse effects on water quality. In addition, all disturbed areas will be seeded and/or planted following construction to prevent soil erosion.

c) and d) No Impact. The proposed project does not include the construction of structures or increased use by people and would not be subject to significant hazards associated with landslides, lateral spreading, or collapse. The property does include an existing hay barn that was constructed on a four-foot high pad or berm located at the eastern edge of the site. The pad and barn structure are subject to an ongoing enforcement action initiated by the Central Valley Flood Protection Board (CVFPB, 2011). To resolve the enforcement action, the agency has ordered the applicant to remove the unpermitted barn and the imported fill that was used to create the pad by November 1, 2014 (CVFPB, 2011). No County permits for the proposed project will be issued by Yolo County until this enforcement action is resolved.

(e) No Impact. The project would not generate wastewater.

VII. GREENHOUSE GAS EMISSIONS/CLIMATE CHANGE.	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than significant Impact	No Impact
Would the project:				
a. Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	☐	☐	☒	☐
b. Conflict with any applicable plan, policy or regulation of an agency adopted for the purpose of reducing the emissions of greenhouse gases?	☐	☐	☐	☒
c. Be affected by climate change impacts, e.g., sea level rise, increased wildfire dangers, diminishing snow pack and water supplies, etc.?	☐	☐	☒	☐

Environmental Setting

The issue of combating climate change and reducing greenhouse gas emissions (GHG) has been the subject of recent state legislation (AB 32 and SB 375). The Governor's Office of Planning and Research has recommended changes to the California Environmental Quality Act (CEQA) Guidelines, and the environmental checklist which is used for Initial Studies such as this one. The changes to the checklist are incorporated above in the two questions related to a project's GHG impacts. A third question has been added by Yolo County to consider potential impacts related to

climate change's effect on individual projects, such as sea level rise and increased wildfire dangers.

To date, specific thresholds of significance to evaluate impacts pertaining to GHG emissions have not been established by local decision-making agencies, the Yolo Solano Air Quality Management District, the State, or the federal government. However, this absence of thresholds does not negate CEQA's mandate to evaluate all potentially significant impacts associated with the proposed project. Yolo County has adopted a Climate Action Plan (CAP) which addresses these issues.

The following discussion of GHG/climate change impact relies upon the draft CAP and "tiers off" the analysis, conclusions, and measures included in the Final Environmental Impact Report (FEIR) of the 2030 Yolo Countywide General Plan (Yolo County, 2009b). The FEIR assumed th conversion of over 4,200 acres for open space uses including parks, trails, and habitat. While the FEIR analysis concluded that the severity of impacts related to planned urban growth and GHG/climate change could be reduced by some policies and some available mitigation measures, the overall impact could not be reduced to a less than significant level. The impacts of countywide cumulative growth on GHG emissions, and the impacts of climate change on cumulative growth, are considered significant and unavoidable at this time.

The adopted 2030 Yolo Countywide General Plan (Yolo County, 2009a) contains several policies and implementation programs that require proposed development projects to reduce GHG emissions and conserve energy. The policies and action programs that are relevant to the proposed wetlands and wildlife habitat project include the following:

Policy CO-8.2: Use the development review process to achieve measurable reductions in greenhouse gas emissions.

Action CO-A117: Pursuant to the adopted Climate Action Plan (CAP), the County shall take all feasible measures to reduce its total carbon dioxide equivalent (CO2e) emissions within the unincorporated area (excluding those of other jurisdictions, e.g., UC-Davis, Yocha Dehe Wintun Nation, DQ University, school districts, special districts, reclamation districts, etc.), from 648,252 metric tons (MT) of CO2e in 2008 to 613,651 MT of CO2e by 2020. In addition, the County shall strive to further reduce total CO2e emissions within the unincorporated area to 447,965 MT by 2030. These reductions shall be achieved through the measures and actions provided for in the adopted CAP, including those measures that address the need to adapt to climate change. (implements Policy CO-8.1)

Action CO-A118: Pursuant to and based on the CAP, the following thresholds shall be used for determining the significance of GHG emissions and climate change impacts associated with future projects:

1) Impacts associated with GHG emissions from projects that are consistent with the General Plan and otherwise exempt from CEQA are determined to be less than significant and further CEQA analysis for this area of impact is not required.
2) Impacts associated with GHG emissions from projects that are consistent with the General Plan, fall within the assumptions of the General Plan EIR, consistent with the CAP, and not exempt from CEQA are determined to be less than significant or mitigated to a less-than-significant level, and further CEQA analysis for this area of impact is generally not required.

   To be determined consistent with the CAP, a project must demonstrate that it is included in the growth projections upon which the CAP modeling is based, and that it incorporates applicable strategies and measures from the CAP as binding and enforceable components of the project.

3) Impacts associated with GHG emissions from projects that are not consistent with the General Plan, do not fall within the assumptions of the General Plan EIR, and/or are not consistent with the CAP, and are subject to CEQA review are rebuttably presumed to be significant and further CEQA analysis is required. The applicant must demonstrate to the County's satisfaction how the project will achieve its fair share of the established targets including:

- Use of alternative design components and/or operational protocols to achieve the required GHG reductions;

- Use of real, additional, permanent, verifiable and enforceable offsets to achieve required GHG reductions. To the greatest feasible extent, offsets shall be: locally based, project relevant, and consistent with other long term goals of the County;

The project must also be able to demonstrate that it would not substantially interfere with implementation of CAP strategies, measures, or actions. (implements Policy CO-8.5)

Discussion of Impacts

a) Less than Significant Impact. The project could affect GHG emissions through equipment used during grading activities and vehicle trips generated by employees, as well as physical changes in the vegetation of the land and the reduction in agricultural activities. However, as noted above in the Air Quality section, short-term air quality and GHG impacts will be generated by a relatively brief period (101 days for Phase I and 125 days for Phase II) of grading activity and a small number of employee commute trips (approximately six to twelve employees generating 12 to 32 trips per day over the construction period).

b) No impact. The project would not conflict with any applicable plan, policy or regulation adopted to reduce GHG emissions, including the numerous policies of the 2030 Yolo Countywide General Plan, or the regulations of the draft Climate Action Plan.

c) Less than Significant Impact. The project could be affected by climate change impacts, specifically sea level rise. The project is located in the Yolo Bypass area and portions of the project site are currently flooded on a regular basis. Projections of the sea level rise caused by global warming and climate change have been prepared by the USGS, and are included in the Final EIR of the 2030 Yolo Countywide General Plan (Yolo County, 2009b). The USGS projections show that areas within the one meter average daily tidal range will be inundated by sea level rise by 2100. These inundated areas include large portions of the southern portion of Yolo County including the project site.

A one meter rise in sea level by 2100 would have no effect on the project. Assuming the project is approved and goes to construction in 2012 or 2013, conditions on the project site would naturally respond to changes in sea level over time.

VII.	HAZARDS AND HAZARDOUS MATERIALS.	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than significant Impact	No Impact
Would the project:					
a.	Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	☐	☐	☒	☐
b.	Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	☐	☐	☒	☐
c.	Emit hazardous emissions or involve handling hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	☐	☐	☐	☒
d.	Be located on a site that is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	☐	☐	☐	☒
e.	Be located within an airport land use plan area or, where such a plan has not been adopted, be within two miles of a public airport or public use airport, and result in a safety hazard for people residing or working in the project area?	☐	☐	☐	☒
f.	Be located within the vicinity of a private airstrip and result in a safety hazard for people residing or working in the project area?	☐	☐	☐	☒
g.	Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	☒
h.	Expose people or structures to a significant risk of loss, injury, or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	☐	☐	☐	☒
i.	Create any health hazard or potential health hazard?	☐	☐	☒	☐

Discussion of Impacts

a) Less than Significant Impact. The proposed project will require the short-term use of construction equipment for grading, and the storage of fuel and oil for the equipment. Construction equipment used on the site would include excavators, backhoes, scrapers, dump trucks, and water trucks. or the environment.

The construction equipment associated with this project typically uses only a minor amount of hazardous materials, primarily motor vehicle fuels and oils. There is a danger that these materials

may be released in accidental spills and result in harm to the environment. As a standard condition of approval, the construction contractor will be required to prepare and implement a Storm Water Pollution Prevention Plan (SWPPP), as described below, to ensure that the risk of accidental spills and releases into the environment would be minimal.

a. All construction staging activities will occur within a designated staging area. The staging area will be marked in the field and on the construction plans. All refueling and maintenance activities will occur within the staging area.

b. Any hazardous materials spill will be cleaned up immediately, in accordance with all federal, state, and local regulations. The contractor will be required to develop and implement a toxic materials control and spill response plan to regulate the use of hazardous materials associated with construction. The contractor will be required to:

(1) prevent oil or other petroleum products, or any other substances that could be hazardous to aquatic life from contaminating the soil or entering watercourses;

(2) establish a spill-prevention and countermeasure plan before construction that includes strict on-site handling rules to keep construction and maintenance materials out of drainages and waterways;

(3) clean up all spills immediately according to the spill prevention and countermeasure plan, and notify DFG immediately of any spills and cleanup activities;

(4) develop a spill prevention plan that includes the following information:

i. A list of immediate containment response actions and extended response actions if necessary;

ii. A list of responsible agencies to contact in the event of a spill emergency within 24 hours;

iii. A list of spill containment equipment held on site as well as the location of the equipment on site;

iv. Identify a contact and location of a professional clean up company; and

v. Designate an onsite incident commander in the event of an emergency. This person will immediately inform DFG-OSPR in the event of an emergency. The incident commander will have complete control of construction and cleanup activities throughout the emergency and the eventual containment.

c. Provide areas located outside the sensitive wetland areas and ditches for staging and storing equipment, materials, fuels, lubricants, solvents, and other possible contaminants; and

d. Remove vehicles from near sensitive wetland areas and ditches before refueling and lubricating.

b) No Impact. The routine use of construction equipment and vehicles to and from the site would not create a significant hazard to the public.

c) No Impact. No schools exist or are proposed within 0.25 mile of the proposed project area.

d) Less Than Significant Impact. A Phase I Environmental Site Assessment was not been conducted for the project site. However, the site is undeveloped with any structures except for a recent barn and has been intensively cultivated in rice. There is no evidence of environmental impairment of the property from off site sources and no nearby contamination.

e) No Impact. The proposed project is located more than two miles from a public airport. The project would not result in a safety hazard for people residing or working in the project area.

f) No Impact. The project is located more than two miles from any private airstrips. The project would not result in a safety hazard for people residing or working in the project area.

g) No Impact. Emergency response plans will not be affected by the proposed project during or upon completion of construction because the proposed project does not involve the development of infrastructure or population of the area.

h) No Impact. The project site is not populated; therefore, the project would not expose people or structures to wildland fires.

i) Less than Significant Impact. The proposed project will result in the creation of open water and marsh habitats that have the potential to result in increased mosquito populations. In order to minimize potential health hazards related to mosquito breeding, the project proponent will be required to coordinate the design and ongoing management of the project with the Sacramento-Yolo Mosquito & Vector Control District. A Condition of Approval for the project will require the applicant to comply with any feasible Best Management Plans proposed by the District.

VIII.	HYDROLOGY AND WATER QUALITY.	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than significant Impact	No Impact
Would the project:					
a.	Violate any water quality standards or waste discharge requirements?	☐	☐	☒	☐
b.	Substantially deplete groundwater supplies or interfere substantially with groundwater recharge, resulting in a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level that would not support existing land uses or planned uses for which permits have been granted)?	☐	☐	☐	☒
c.	Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner that would result in substantial erosion or siltation onsite or off-site?	☐	☐	☒	☐

VIII.	HYDROLOGY AND WATER QUALITY.	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than significant Impact	No Impact
d.	Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner that would result in flooding onsite or off-site?	☐	☐	☒	☐
e.	Create or contribute runoff water that would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	☐	☐	☒	☐
f.	Otherwise substantially degrade water quality?	☐	☐	☒	☐
g.	Place housing within a 100-year flood hazard area, as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	☐	☐	☐	☒
h.	Place within a 100-year flood hazard area structures that would impede or redirect floodflows?	☐	☐	☒	☐
i.	Expose people or structures to a significant risk of loss, injury, or death involving flooding, including flooding as a result of the failure of a levee or dam?	☐	☐	☐	☒
j.	Contribute to inundation by seiche, tsunami, or mudflow?	☐	☐	☐	☒

Discussion of Impacts

a) Less than Significant Impact. Construction activities have the potential to result in temporary impacts to water quality. Ground-disturbing activities could result in a slight increase in the potential for erosion and sedimentation. However, the construction contractor will be required to prepare and implement a Storm Water Pollution Prevention Plan (SWPPP), as described below, to control stormwater runoff, erosion, sedimentation, and other construction-related pollutants during excavation and until construction is complete and all disturbed areas would be permanently stabilized. This would substantially minimize the potential for project-related erosion and sedimentation and the violation of applicable water quality standards.

Small volumes of petroleum products (fuel, engine oil, and hydraulic line oil) would be temporarily used and handled to operate construction equipment. There is potential for these materials to be released in accidental spills and result in harm to people or the environment. The implementation of a SWPPP would include methods to protect water quality in response to emergency spills, and would minimize potential effects.

The preparation and implementation of the SWPPP is necessary to comply with the requirements of Yolo County's erosion control ordinance and the state's National Pollutant Discharge Elimination System (NPDES) general construction activity stormwater permit. The specific "best management practices" (BMPs) that would be incorporated into the SWPPP would be determined during the final design phase and would be prepared in accordance with the Regional Water Quality Control Board field manual and with County staff. The plan should include, but not be limited to, the following standard erosion and sediment control BMPs:

a. The construction contractor would conduct all construction activities during the dry season to avoid ground disturbance during the rainy season.

b. To the extent possible, equipment and materials would be staged in areas that have already been disturbed.

c. The construction contractor would minimize ground disturbance and the disturbance/destruction of existing vegetation. This would be accomplished in part through the establishment of designated equipment staging areas, ingress and egress corridors, and equipment exclusion zones prior to the commencement of any grading operations. All construction staging activities will occur within a designated staging area. The staging area will be marked in the field and on the construction plans. All refueling and maintenance activities will occur within the staging area.

d. The construction contractor may install silt fences, fiber rolls, or similar devices to prevent sediment-laden runoff from leaving the construction area.

e. The construction contractor would install structural and vegetative methods to permanently stabilize all graded or otherwise disturbed areas once construction is complete. Structural methods may include the installation of biodegradable fiber rolls and erosion control blankets. Vegetative methods may involve the application of organic mulch and tackifier and/or the application of an erosion control seed mix.

In addition, these specific BMPs shall be included in the SWPPP:

f. Erosion control best management practices (BMPs) will be implemented during excavation of the upland habitat to ensure that substances, such as run-off generated by dust control activities, do not enter other aquatic resources during or following construction. BMPs include, but are not limited to, compaction of berms and upland spoils, and seeding and mulching areas of disturbed/exposed soil.

g. When feasible, soil stockpiles will be located more than 50 feet from existing aquatic resources, and will be surrounded with erosion control (i.e., silt fencing or sterile straw wattles). Stockpiles and other exposed soil will be watered for dust control and soil compaction, where necessary. The amount of water applied to the site will be monitored to prevent erosion and surface runoff due to excessive watering. The water will be applied to exposed soil by using a water truck. The water will be pumped from existing onsite drainage features. Water application will be directed away from other aquatic resources.

Another water quality issue that must be addressed by the project is mercury bio-accumulation. California was the nation's leading producer of mercury between 1850 and 1980, cumulatively extracting more than 110,000 tons. Much of the mercury was mined in the Coast Range and transported to the Sierra Nevada for use in gold mining. Early mining methods for both mercury and gold were inefficient. As a result, it is estimated that nearly half of the amount mined (45,000 tons) may have been lost and is now draining into local waterways. This has led to widespread mercury contamination in fish, insects, sediment and water in the Sacramento-San Joaquin Delta and its tributaries. Cache Creek (and the Yolo Bypass into which it drains) has been identified as a significant source of mercury within the Delta watershed.

When inorganic mercury is exposed to anaerobic organisms living in the sediment found in rivers, streams, wetlands, and other aquatic systems, it can be converted to mono-methyl-mercury. This

compound bio-accumulates in the food chain. Excessive consumption of local fish in the Delta is considered a health hazard, particularly for pregnant women and children. Mono-methyl-mercury can also impair endangered and threatened species, such as salmon and Swainson's hawks.

High concentrations of anaerobic organisms are found in both habitat and agricultural wetlands. Marshes and rice fields are dominant land uses within the Yolo Bypass. The subject project proposes to convert existing rice fields to managed wetlands for use as giant garter snake habitat. A 2010 study by the US Geological Survey, California Department of Fish and Game, San Jose State University and others, found that mercury concentrations in fish were greater in seasonally-flooded agricultural wetlands (white rice and wild rice) than in permanently flooded habitat wetlands.

Under the Methyl Mercury Control Study Guidance adopted by the Central Valley Regional Water Quality Control Board on May 15, 2012, new wetland restoration projects that have the potential to increase methyl mercury loads will be required to prepare a study. This applies to all new projects in the Yolo Bypass initiated after October 20, 2011. Such applicants shall either participate in the Mercury Control studies or implement equivalent site-specific study plans. Projects that include dredging, which could increase mercury or methyl mercury levels, are also required to prepare a control study. The proposed project consists of a new wetland restoration project within the Yolo Bypass and would include dredging to create garter snake habitat. As a result, the project would be subject to the Methyl Mercury Control Study Guidance.

b) No Impact. The proposed project does not involve the withdrawal of groundwater and would not interfere with groundwater recharge.

c) and d) Less than Significant Impact. The project requires the issuance of a flood permit by Yolo County. According to Section 8-3.401 of the Yolo County Code, a Flood Hazard Development Permit shall be obtained before any construction or other development begins within any area of special flood hazards. According to Section 8-3.403(a) of the County Code, the Floodplain Administrator shall review all Flood Hazard Development Permits to determine that:

(1) the permit requirements of the chapter have been satisfied;
(2) all other required state and federal permits have been obtained;
(3) the site is reasonably safe from flooding; and
(4) the proposed development does not adversely affect the carrying capacity of areas where base flood elevations have been determined but a floodway has not been designated. For purposes of this chapter, "adversely affects" means that the cumulative effect of the proposed development when combined with all other existing and anticipated development will increase the water surface elevation of the base flood more than one foot at any point.

In addition, Section 8-3.403(c) of the County Code requires the Floodplain Administrator, whenever a watercourse is to be altered or relocated, to "assure that the flood carrying capacity of the altered or relocated portion of said watercourse is maintained."

The engineering firm CBEC, Inc. prepared a hydraulic analysis for the proposed project (CBEC, Inc., 2010). The following is a summary of the report.

The project includes the construction of upland mound area that could impede or redirect floodflows in the Yolo Bypass. However, the hydrology report concludes that development of the Capital Conservation Bank project will affect minor local changes in the water surface elevation and water velocity during the most probable 100-year flood but will only impact the water surface

elevations or water velocities at the edge (banks) of Yolo Bypass if project vegetation is allowed to grow without annual grazing and then only by 0.01-foot.

Yolo County Planning and Public Works Department retained a third party engineering consultant to peer review the EBEC hydraulics analysis. The county consultant, Pacific Hydrologic Incorporated (PHI), reviewed the applicant's study and prepared a brief report documenting the conclusion that the methodology and modeling results of the applicant hydrology study were adequate to ensure that the project grading will not significantly increase flood risks (PHI, 2011).

The PHI peer review states that "Provided that annual grazing is maintained, construction of the Capital Conservation Bank will not significantly increase flood risks to the health and safety of the public, will not significantly increase the risk of flood damage to structures and properties, and will not significantly increase risks to off site channel stability. As proposed, the Capital Conservation Bank project is consistent with Yolo County Code Section 8-3.403 (c) (2)…If the project is proposed without annual grazing, appropriate agencies should be consulted and the sufficiency of the levee to maintain the minimum required level of protection should be evaluated prior to allowing the project to proceed without annual grazing."

A Condition of Approval will be added to the issuance of permits for the project to ensure that grazing or agency review will be required, as recommended.

The findings for issuance of the Flood Hazard Development Permit by Yolo County can be met by the conclusion of the EBEC, Inc. report that only minor increases in water surface elevations of less than one foot would be caused by the project.

However, as noted previously, the property includes an existing hay barn that was constructed on a four-foot high pad or berm located at the eastern edge of the site. The pad and barn structure are subject to an ongoing enforcement action initiated by the Central Valley Flood Protection Board (CVFPB, 2011). The agency has ordered the applicant to remove the unpermitted barn and the imported fill that was used to create the pad. No County permits for the proposed project will be issued by Yolo County until this enforcement action is resolved.

e) and f) Less than Significant Impact. The proposed project would likely not introduce additional sources of polluted runoff or generate other impairments of water quality. Implementation of the SWPPP and BMPs, as described in (b), above, would ensure that the proposed project does not contribute additional sources of polluted runoff.

g) No Impact. The proposed project would not result in the placement of housing within the 100-year floodplain.

h) Less than Significant Impact. The project includes the construction of upland mound areas that could impede or redirect floodflows in the Yolo Bypass. However, as noted above in the discussion in Section (d), the hydrology report, and the County's peer review of it, concluded that only minor local changes in the water surface elevation or water velocities during the most probable 100-year flood would occur due to the project.

i) No Impact. The proposed project does not include housing or structures and the project site is not populated; therefore, the proposed project will not expose people or structures to a significant risk of loss, injury or death involving flooding.

j) No Impact. Seiche and tsunami hazards occur only in areas adjacent to a large body of water. The project site is not located in such an area. The landslide potential of the project site is minimal and the mudflow hazard is minimal.

IX.	LAND USE AND PLANNING.	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than significant Impact	No Impact
Would the project:					
a.	Physically divide an established community?	☐	☐	☐	☒
b.	Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to, a general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	☐	☐	☐	☒
c.	Conflict with any applicable habitat conservation plan or natural community conservation plan?	☐	☐	☐	☒

Discussion of Impacts

a) No Impact. The project site is located in a rural agricultural area, well outside any established community, and there would be no change in land use; therefore, there would be no impact.

b) No Impact. The proposed project would not conflict with the Yolo County General Plan or any other applicable plan. The project is located within the Primary Zone of the Delta, which is regulated by the Delta Protection Commission (DPC) through its adopted Land Use Resource Management Plan (LURMP). The DPC is a state agency that was created by enactment of the Delta Protection Act of 1992. Consistency with the LURMP is ensured through the policy framework of the 2030 Yolo Countywide General Plan. The DPC is currently engaged in a process to update the LURMP. Once the LURMP update is adopted by the DPC, Yolo County will review the General Plan for consistency with the LURMP update and will make amendments as necessary.

The DPC staff reviewed and responded to the 2030 Yolo Countywide Draft General Plan and its accompanying Draft Environmental Impact Report and did not note any inconsistencies with the updated General Plan policies as they relate to the Primary Zone of the Delta. The project is consistent with the Yolo County General Plan and the General Plan is consistent with the current LURMP.

The proposed giant garter snake mitigation bank project, in conjunction with other current habitat projects and probable future projects that mitigate for out of county impacts, have the potential to result in impacts that are individually limited but cumulatively considerable, in terms of loss of agricultural lands or habitat due to widespread conversion of lands in the county to wetlands and/or habitat mitigation banks. On January 29, 2013, to address these issues, the Yolo County Board of Supervisors enacted a Habitat Mitigation Ordinance which regulates habitat and wetland conversion projects.

c) No Impact. The County does not have an adopted Habitat Conservation Plan (HCP) or Natural Community Conservation Plan (NCCP), although a draft plan is now being prepared by the Yolo County Joint Powers Agency (JPA). The proposed project would not conflict with any of the existing mitigation requirements or policies of the Yolo County draft HCP/NCCP.

X.	MINERAL RESOURCES.	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than significant Impact	No Impact
Would the project:					
a.	Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	☐	☐	☐	☒
b.	Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?	☐	☐	☐	☒

Discussion of Impacts

a) and b) No impact. The project area has not been identified as an area of significant aggregate deposits.

XI.	NOISE.	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:					
a.	Expose persons to or generate noise levels in excess of standards established in a local general plan or noise ordinance or applicable standards of other agencies?	☐	☐	☒	☐
b.	Expose persons to or generate excessive groundborne vibration or groundborne noise levels?	☐	☐	☐	☒
c.	Result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☐	☐	☒
d.	Result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☐	☒	☐
e.	Be located within an airport land use plan area, or, where such a plan has not been adopted, within two miles of a public airport or public use airport and expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	☒
f.	Be located in the vicinity of a private airstrip and expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	☒

Discussion of Impacts

a) Less than Significant Impact. Construction of the proposed project would temporarily increase noise in the vicinity of the project area. Noise increases would result from on-site construction activities. Temporary construction noise associated with the grading activities is

similar to existing noise associated with ongoing agricultural activities in the adjacent areas. No construction will occur during the night. After construction is complete, noise levels will drop to existing levels.

b) No Impact. The proposed project will not generate groundborne vibration.

c) No Impact. No new project features of the project would create noise.

d) Less than Significant Impact. As described above, temporary construction would not result in substantial increases in ambient noise levels and no new noise would be generated upon completion of the proposed project.

e) No Impact. The proposed project is located more than two miles from a public airport. The project would not expose people residing or working in the project area to excessive noise levels.

f) No Impact. The proposed project is located more than two miles from a private airstrip. The project would not expose people residing or working in the project area to excessive noise levels.

XII.	POPULATION AND HOUSING.	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than significant Impact	No Impact
Would the project:					
a.	Induce substantial population growth in an area, either directly (e.g., by proposing new homes and businesses) or indirectly (e.g., through extension of roads or other infrastructure)?	☐	☐	☐	☒
b.	Displace a substantial number of existing housing units, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☒
c.	Displace a substantial number of people, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☒

Discussion of Impacts

a) No Impact. The proposed project would not induce any population growth either directly or indirectly.

b) No Impact. The proposed project would not displace any existing housing units.

c) No Impact. There are no housing units on the project site, and implementation of the proposed project would not displace any housing units or people.

XIII.	PUBLIC SERVICES.	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than significant Impact	No Impact
Would the project:					
a.	Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities or a need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for any of the following public services:				
	Fire protection?	☐	☐	☐	☒
	Police protection?	☐	☐	☐	☒
	Schools?	☐	☐	☐	☒
	Parks?	☐	☐	☐	☒
	Other public facilities?	☐	☐	☐	☒

Discussion of Impacts

a) No Impact. The proposed project is a wetland restoration project. The project would not result in an increased demand for any public services.

XIV.	RECREATION.	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than significant Impact	No Impact
Would the project:					
a.	Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	☐	☐	☐	☒
b.	Include recreational facilities or require the construction or expansion of recreational facilities that might have an adverse physical effect on the environment?	☐	☐	☐	☒

Discussion of Impacts

a) No Impact. The proposed project would not increase the use of any existing parks.

b) No Impact. The proposed project does not include recreational facilities or require the construction or expansion of existing recreational facilities.

XV.	TRANSPORTATION/TRAFFIC.	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than significant Impact	No Impact
Would the project:					
a.	Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?	☐	☐	☒	☐
b.	Cause, either individually or cumulatively, exceedance of a level-of-service standard established by the county congestion management agency for designated roads or highways?	☐	☐	☒	☐
c.	Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	☐	☐	☐	☒
d.	Substantially increase hazards because of a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	☐	☐	☐	☒
e.	Result in inadequate emergency access?	☐	☐	☐	☒
f.	Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?	☐	☐	☐	☒

Discussion of Impacts

(a) and (b) Less than Significant Impact. During construction, the movement of crews, and equipment would result in temporary increases in traffic on the surrounding roadways. The equipment needed for the construction would make one trip to the property and one trip leaving the site once construction is complete. Approximately six to twelve construction employees would need to access the site daily during construction, over approximately 101 days (Phase 1) and 125 days (Phase 2). These trips would generate a temporary increase in traffic during construction, equal to a small number of employee commute trips (approximately six to twelve employees generating 12 to 32 trips per day over the construction period).The project would not significantly increase traffic in the area because the amount of traffic anticipated to be generated by the proposed project is relatively minor and the increase in truck traffic is not expected to be great enough to reduce levels of service on local roadways.

(c) No Impact. The proposed project would not affect air traffic patterns; therefore, there would be no impact.

(d) No Impact. The proposed project does not have any design features that would result in hazardous traffic conditions.

(e) No Impact. There would be no change in emergency access as a result of the project.

(f) No Impact. Estimates of the number of pieces of equipment that would be required suggest that from six to eight workers would be needed for construction. Adequate parking is available adjacent to project site.

(g) No Impact. Construction of the proposed project would be temporary and would not conflict with any adopted policies, plans, or programs supporting alternative transportation.

XVI.	UTILITIES AND SERVICE SYSTEMS.	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than significant Impact	No Impact
Would the project:					
a.	Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	☐	☐	☐	☒
b.	Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	☐	☐	☐	☒
c.	Require or result in the construction of new stormwater drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	☐	☐	☐	☒
d.	Have sufficient water supplies available to serve the project from existing entitlements and resources, or would new or expanded entitlements be needed?	☐	☐	☐	☒
e.	Result in a determination by the wastewater treatment provider that serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	☐	☐	☐	☒
f.	Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	☐	☐	☐	☒
g.	Comply with federal, state, and local statutes and regulations related to solid waste?	☐	☐	☐	☒

Discussion of Impacts

(a) through (g) No Impact. The proposed project would not create any new demand for utilities or public service systems. It would not exceed wastewater requirements, nor would it necessitate expansion of any wastewater treatment facilities or water supply entitlements. The project would comply with federal, State, and local regulations related to solid waste.

XVII.	MANDATORY FINDINGS OF SIGNIFICANCE.	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than significant Impact	No Impact
a.	Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory?	☐	☒	☐	☐
b.	Does the project have impacts that are individually limited but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.)	☐	☒	☐	☐
c.	Does the project have environmental effects that will cause substantial adverse effects on human beings, either directly or indirectly?	☐	☐	☐	☒

Discussion of Impacts

a) Less than Significant Impact with Mitigation. As discussed in the Air Quality and Biological Resources sections of the Initial Study, the proposed project could result in potentially significant temporary impacts as a result of construction. These impacts have the potential to degrade the quality of the environment and impact Special Status Species. However, implementation of mitigation measures described in this Initial Study would reduce these individual impacts to less-than-significant levels.

b) Less than Significant Impact with Mitigation. The proposed project has temporary construction impacts and long-term impacts. Temporary impacts are short-term impacts associated with grading and construction activities. Temporary impacts include air emissions during construction, decreased water quality as a result of construction activities, noise impacts during construction and similar impacts. These temporary impacts, in combination with other construction projects in Yolo County, will be reduced to a less-than-significant level through implementation of the mitigation measures described in this Initial Study.

The proposed project in conjunction with other current projects and probable future projects have the potential to result in impacts that are individually limited but cumulatively considerable, in terms of loss of agricultural lands or habitat due to widespread conversion of lands in the county to wetlands and/or habitat mitigation banks. The applicant will be required to mitigate for the loss of agricultural land according to the County's Agricultural Conservation Easement Program. The project does not conflict with existing agricultural zoning or an existing Williamson Act contract, as the contract itself will be amended and/or replaced as part of project approval and the Williamson Act expressly authorizes certain open space uses.

c) No Impact. There are no identified impacts of the proposed project that would cause adverse effects on human beings, either directly or indirectly.

References Consulted and Cited

Applicant materials submitted.

AECOM, 2011. *Prospectus Capital Conservation Bank*, which includes Existing Site Conditions; Bank Credits, Service Areas, and Development; Bank Ownership, Stewardship and Funding; License for Diversion and Use of Water; Biological Survey Report; Giant Garter Snake Habitat Analysis; and USACE Preliminary Jurisdictional Determination Letter, February.

AECOM, 2010, *Memorandum re: Capital Conservation Bank Special-Status Species Investigations,* November 3 (included in the *Prospectus* noted above).

CBEC, Inc., 2011. *Flood Conveyance Modeling-Phase 1 and Phase 2, Capital Conservation Bank*, June 6.

California Department of Conservation, 2010. *Updated fault maps* at http://www.consrv.ca.gov/cgs/cgs_history/Pages/2010_faultmap.aspx.

California Department of Fish and Game, 1994. *Staff report regarding mitigation for impacts to Swainson's hawks* (Buteo swainsoni) *in the Central Valley of California,* November.

California Department of Fish and Game, 2012. *Staff report regarding mitigation for impacts to the Burrowing Owl,* March 7.

Central Valley Flood Protection Board (CVFPB), 2011. *Letter to Ron and Clover Smith regarding unauthorized earthen pad and hay barn in Yolo Bypass*, September 2.

Central Valley Flood Protection Board (CVFPB), 2013. *Letter to Ron and Clover Smith regarding Compliance with Stipulated Cease and Desist Order for Enforcement Action 2012-145*, February 5.

Central Valley Regional Water Quality Control Board (CVRWQCB), 2012. Methyl Mercury Control Study Guidance, adopted May 15.

Estep, Jim, 2009. *The Influence of Vegetation Structure on Swainson's Hawk Foraging Habitat Suitability in Yolo County*. Prepared for Technology Associates International Corporation and Yolo Natural Heritage Program. February.

Hansen, 2009. *Giant Garter Snakes Surveys on the Capitol Conservation Bank Site* memorandum to Dustin Smith, included in AECOM, 2010, cited above, October 15.

Pacific Hydrologic Incorporated (PHI), 2011. *Capital Conservation Bank, Drainage Study Review,* July 18, peer review of the applicant's hydrology study prepared for Yolo County.

United States Army Corps of Engineers (USACE), 2010. Letter from Kathleen Dadney, Chief, California Delta Branch, to Dustin Smith, regarding preliminary jurisdictional determination, included in AECOM, 2010, cited above, August 10.

U.S. Environmental Protection Agency (USEPA), 1999. Estimating Particulate Matter Emissions From Construction Operations, Midwest Research Institute, September.

California South Coast Air Quality Management District (CSCAQMD), 1996. Improvement of Specific Emission Factors (BACM Project No. 1) Midwest Research Institute, March.

United States Fish and Wildlife Service (USFWS), 1997. Giant Garter Snake Programmatic Biological Opinion, November 13.

Western Regional Air Partnership (WRAP), 2006. WRAP Fugitive Dust Handbook, Western Governors' Association, Countess Environmental, September 7, accessed at http://www.wrapair.org/forums/dejf/fdh/content/fdhandbook_rev_06.pdf.

Yolo County, 2009a. *2030 Yolo Countywide General Plan*, November.

Yolo County, 2009b. *Final Environmental Impact Report for the 2030 Yolo Countywide General Plan,* November.

Yolo-Solano Air Quality Management District (YSAQMD), 2007. *Handbook for Assessing and Mitigating Air Quality Impacts.*

YOLO COUNTY BOARD OF SUPERVISORS
FINDINGS--CAPITAL CONSERVATION BANK ZF #2011-0033

On March 11, 2014, the Yolo County Board of Supervisors conducted a duly noticed public hearing on the above-referenced project. During the hearing, the Board of Supervisors heard and received all oral and written testimony and material presented in connection with the project, and all persons in attendance were given an opportunity to address the Board of Supervisors the regarding the project.

After considering such testimony and material, the Board of Supervisors approved the project and took the other recommended actions set forth in the Board letter. The Board adopts the following findings in support of those actions:

Findings Relating to Use Permit Approval.

Section 1. Findings Relating to Use Permit Criteria.

This Section addresses each of the criteria to be considered by the Board of Supervisors in evaluating whether to approve this project, as set forth in Yolo County Code Section 10-10.303(a)-(h). Each subsection is set forth in italics below, followed by the text of the recommendation.

(a) That the project applicant has substantially complied with the requirements of this Chapter, including but not limited to provisions addressing the submission and contents of a management plan;

The project applicant has provided a substantial amount of material to staff regarding the project, all in accordance with Section 10-10.302 of the Yolo County Code (relating to application materials). The submitted material includes detailed Interim and Long Term Management Plans, a Prospectus, and draft Bank Enabling Instrument that explain how the conservation bank will be operated and maintained over time, as well as how such activities will be financed (i.e., by an endowment for perpetual operation and maintenance). This requirement is satisfied.

(b) That the project would not significantly conflict with surrounding land uses;

No significant conflicts with surrounding land uses are anticipated. Surrounding land uses include the Pope Ranch Conservation Bank to the west, which is also a giant garter snake conservation bank. The project will create a large area of interconnected habitat with mounded areas above the floodplain, thus enhancing the overall quality and extent of giant garter snake habitat in this area of the Yolo Bypass. Water management within Phase 1 of the project, as described in the management plan, is similar to water management for rice farming and related agricultural activities, and is thus not expected to cause adverse impacts on surrounding properties. Many surrounding properties operate as duck clubs and otherwise include seasonal wetland habitat, and the project is

not expected to adversely affect such operations or significantly increase the population of waterfowl and other birds that contribute to crop depredation.

(c) That the project would not have a significant adverse effect on biological resources and, in addition, is not reasonably expected to significantly conflict with the Yolo Natural Heritage Program (HCP/NCCP);

The Mitigated Negative Declaration includes a detailed discussion of the potential for adverse effects on biological resources, including the giant garter snake (which could be impacted by project construction) and the burrowing owl. Appropriate mitigation measures are included and, in addition, project construction is subject to a biological opinion or similar approval to be issued by the United States Fish and Wildlife Service (USFWS) with related mitigation measures to reduce the potential for impacts to the giant garter snake during construction.

The potential for a conflict with the Yolo Natural Heritage Program is difficult to assess at the present time, but no significant conflict is expected. The YNHP may ultimately allow for preservation of giant garter snake habitat (or the creation of conservation banks) in the Yolo Bypass. Presently, however, uncertainty remains about whether the California Department of Fish and Wildlife and the USFWS will allow the YNHP to mitigate the loss of giant garter snake habitat (or otherwise receive credit toward satisfying permit requirements) by preserving and/or restoring habitat in the Yolo Bypass.

If this project is approved by USFWS, it seems reasonable to anticipate the USFWS would not later preclude the YNHP from proposing mitigation or otherwise receiving credit for restored lands within the Yolo Bypass benefitting the giant garter snake. The apparent support of USFWS for the project is therefore an indication that the agency would support related changes to the YNHP. If that occurs, the project will be consistent with the YNHP upon its eventual approval (anticipated in 2015) and may contribute to achievement of its preservation requirements.

(d) That the project would not significantly compromise flood safety and the protection of life and property;

This issue is addressed in the staff report, the Mitigated Negative Declaration and associated reports. Based on the County's peer review of information provided by the applicant on this subject, the potential for adverse impacts on flood safety is minimal and can be eliminated entirely by the inclusion of requirements for vegetation maintenance. A Condition of Approval addressing vegetation maintenance is proposed.

(e) That the project would not have a significant adverse economic effect—either by itself or cumulatively—within the County or region. This factor shall only be considered for projects that convert 40 or more acres of farmland;

The applicant has provided a report containing a detailed discussion of the economic effects of the project. This paper has not been peer-reviewed, but has been accepted by County staff and offered for Board of Supervisors consideration.

Generally, the applicant indicates that the project will have a positive effect on employment and other economic activity during construction and in its subsequent operation (relative to maintaining the project site in agriculture). The need for active maintenance of the site in perpetuity will generate various forms of economic activity, including the employment of individuals to perform site maintenance (including grazing) and the acquisition of materials for habitat and water infrastructure maintenance. However, the conversion to habitat will ultimately result in an annual estimated economic loss of $122,000 due to reduced agricultural output (compared with maintaining rice farming).

Taking these activities and the applicant's representations regarding crop yields and related agricultural information into account, it appears that any economic effects of the project--should such effects occur--will be relatively minor in the context of the County's overall agricultural economy. This is not necessarily a straightforward or simple conclusion, and a different determination may be appropriate for similar projects (including Phase 2 of this project, if it later comes forward for consideration) as the overall scale of habitat restoration in Yolo County is better understood over time.

(f) That the project, if undertaken in furtherance of the "co-equal goals" and the habitat restoration objectives of the Delta Reform Act, will proceed in a manner that is faithful to the Act in its entirety, including its basic policy direction that the coequal goals of "providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem" are to be achieved in a manner "that protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place";

This factor is not relevant to the project. Conservation and mitigation banks generally provide direct mitigation for the effects of projects causing a loss of species habitat (or in some instances, a "take" of individual members of a listed species). The habitat restoration objectives of the Delta Reform Act tend to contemplate broader programs of habitat restoration that are integrated or otherwise linked in some manner with efforts to ensure a reliable water supply, as reflected in the "co-equal goals". This project does not have any clear connection to such matters.

(g) If the project site is subject to a Williamson Act contract, that the project is an "open space use" under Government Code Section 51201(o) or that it would not otherwise cause a material breach of the contract. Any project that is an "open space" use under Section 51201(o) shall also require approval of an amended Williamson Act contract or other appropriate action to authorize the open space use;

As part of its approval of this item, the Board of Supervisors has conditionally designated the project site as a "wildlife habitat area" pursuant to Government Code Section 51201(j), which is defined as: "a land or water area designated by a board or council, after consulting with and considering the recommendation of the Department of Fish and Game, as an area of importance for the protection or enhancement of the wildlife resources of the state." An amendment to the existing Williamson Act contract to incorporate this designation is required, and will resolve any question of Williamson Act consistency.

(h) That any conversion of farmland to habitat or other non-agricultural uses will be mitigated in accordance with Yolo County Code Section 8-2.2416 (notwithstanding anything to the contrary set forth therein regarding its application to habitat projects) or, subject to the approval of the Board of Supervisors, that the applicant will implement an alternative approach to addressing the conversion of farmland that provides an equal or greater level of mitigation; and

In approving this project, the Board accepts the alternative mitigation proposal described in the staff report. The applicant also has the option of mitigating by preserving 137 acres of farmland in a suitable location outside of the Yolo Bypass in accordance with Yolo County Code Section 8-2.2416. The easement or deed restrictions that implement this mitigation must return to the Board of Supervisors for approval (including approval regarding the location of the mitigation site) prior to the issuance of grading permits or commencement of grading for the project.

(i) That the project would not significantly conflict with other relevant considerations of public health, safety, or welfare, sufficient to require preparation of a statement of overriding considerations pursuant to the California Environmental Quality Act.

The matters covered by this finding are directly addressed in the Mitigated Negative Declaration. As explained therein, all potential environmental impacts of the project can be eliminated or reduced to a level of insignificance with the incorporation of mitigation that has been accepted by the applicant. Also, the project cannot proceed until all other agency approvals are granted. Among other things, this will ensure that flood protection and related public safety issues are fully addressed (through issuance of appropriate approvals by the Central Valley Flood Protection Board) at both the state and County levels.

Section 2. Findings Regarding Other Matters.

The Board of Supervisors adopts findings on the following topics, as set forth below: (A) General Plan consistency; (B) consistency with the Delta Protection Act and the Land Use and Resource Management Plan adopted by the Delta Protection Commission; and (C) adequacy of the Mitigated Negative Declaration pursuant to CEQA.

A. General Plan Consistency.

The General Plan contains various policies regarding two issues that can sometimes be at odds with one another: the preservation of farmland and, separately, the preservation, restoration, and creation of habitat for rare, threatened and endangered species. For example, the Agriculture and Economic Development Element contains the following policies with a bearing on the project:

- AG-1.14, relating to preserving agricultural lands using a variety of programs, including the Williamson Act, Farmland Preservation Zones (implemented through the Williamson Act), conservation easements, an Agricultural Lands Conversion Ordinance and the Right-to-Farm Ordinance.

- AG 1-5 and 1-6, relating to continuing to reserve farmland for agricultural uses.

- AG 2-8 through 2-10, and 2-13, relating to the integration of habitat (such as hedgerows) with existing agricultural practices, as well as protecting adjacent landowners from additional restrictions due to the presence of rare, threatened, or endangered species.

- AG 6-1 and 6-3, relating to compliance with the Land Use and Resource Management Plan (LURMP) of the Delta Protection Commission and preserving agricultural as the primary (but not sole) land use in the Primary Zone of the Delta.

Similarly, the Land Use and Conservation and Open Space Elements[1] contain policies that are relevant to the project:

- LU-7.2. Support and participate in countywide, regional and other multiagency planning efforts related to housing, tourism, air quality, open space, green infrastructure, recreation, agriculture, habitat conservation, energy, emergency preparedness and flood protection.

- LU-7.4. Work with SACOG and its other member jurisdictions to develop a mutually-acceptable plan for open space conservation, habitat protection and mitigation banking, to ensure that Yolo County is appropriately compensated when its land is used to achieve region-wide environmental benefits.

- Policy CO-1.28. Balance the needs of agriculture with recreation, flood management, and habitat, within the Yolo Bypass.

[1] Policy CO-1.17, relating to out-of-county mitigation, is not relevant because it was intended to serve as an interim policy prior to adoption of the Habitat Mitigation Ordinance.

- Goal CO-2 Biological Resources. Protect and enhance biological resources through the conservation, maintenance, and restoration of key habitat areas and corresponding connections that represent the diverse geography, topography, biological communities, and ecological integrity of the landscape.
- Policy CO-2.2. Focus conservation efforts on high priority conservation areas (core reserves) that consider and promote the protection and enhancement of species diversity and habitat values, and that contribute to sustainable landscapes connected to each other and to regional resources.
- Action CO-A25. Develop a conservation strategy that considers the preservation and protection of intact functioning landscapes, watersheds, and landscape corridors. The approach should be based on the initial identification of high value habitat areas (core areas) and how these areas could be physically linked across the landscape. Coordinate to ensure that the basic landscape-level conservation concepts are incorporated into the HCP/NCCP.
- Action CO-A26. Adopt and implement the Habitat Conservation Plan/Natural Communities Conservation Plan developed through the Yolo Natural Heritage Program. Integrate the HCP/NCCP (Natural Heritage Program) into the General Plan as appropriate. Direct habitat mitigation to strategic areas that implement the Yolo Natural Heritage Program and are consistent with the County's conservation strategy. Avoid the conversion of agricultural areas and focus on lands where wildlife values and farming practices are complementary.
- Policy CO-1.13, relating to compatibility of approved land uses with nature resource policies of the LURMP.
- Policy CO-1.15. Support efforts to acquire either fee title or easements on additional open space areas adjoining existing protected natural resource areas to increase the size, connectivity, and buffering of existing habitat.
- Policy CO-1.16. Coordinate open space acquisition with habitat acquisition that occurs pursuant to the Yolo Natural Heritage Program.
- Policy CO-2.3. Preserve and enhance those biological communities that contribute to the county's rich biodiversity including blue oak and mixed oak woodlands, native grassland prairies, wetlands, riparian areas, aquatic habitat, agricultural lands, heritage valley oak trees, remnant valley oak groves, and roadside tree rows.
- Policy CO-2.10. Encourage the restoration of native habitat.
- Policy CO-1.23. Increase public access and recreational uses along waterways wherever feasible, particularly Cache Creek, Lower Putah Creek, the Yolo Bypass, and the Sacramento River.

- Policy CO-2.36, relating to financial mechanisms to ensure the permanent maintenance of protected habitat.

On balance, the policies listed above can be read together to allow mitigation and conservation banks in suitable locations on a project-by-project basis, particularly where such projects do not substantially jeopardize the continuation of agriculture on a broader basis. The project is therefore consistent with these policies.

B. Land Use and Resource Management Plan Consistency.

The LURMP of the Delta Protection Commission applies to projects in the Primary Zone of the Delta.[2] While the LURMP emphasizes that Primary Zone lands are generally to be used for agriculture, it does not prohibit all non-agricultural uses and, in fact, can be read to encourage habitat restoration (including conservation and mitigation banks) on a limited basis. [See, e.g., Natural Resources Policies 5, 6, 7, and 9.] Consequently, the project appears consistent with the LURMP and the Delta Protection Act.

C. CEQA Compliance.

With regard to CEQA compliance, the Board of Supervisors has independently reviewing and analyzing the IS/MND, considered the information and analysis contained therein, and considered all written and oral comments received on the project and these documents. In consideration of these matters, the Board finds as follows:

- The IS/MND has been completed in compliance with CEQA and all other legal requirements.

- The project has been modified to include all mitigation necessary to eliminate all significant or potentially significant environmental effects of the proposed project or to reduce such effects to a less than significant level.

- There is no substantial evidence, on the basis of the entire record, that the proposed project may have a significant environmental effect.

- That the IS/MND is the appropriate level of environmental review for the project for the foregoing reasons.

The Board has adopted the Mitigation Monitoring and Reporting Program prepared for the project as part of its approval thereof. The administrative record for the project is located at the Yolo County Planning and Public Works Department, 292 West Beamer Street, Woodland, CA, 95695.

[2] The LURMP is available at: http://www.delta.ca.gov/plan.htm.

FILED

MAR 11 2014

BY Lupita Ramirez
DEPUTY CLERK OF THE BOARD

RESOLUTION NO. 14-20

Resolution of the Yolo County Board of Supervisors Regarding Phase I of the Capital Conservation Bank

WHEREAS, the America's Habitats, Inc., ("Applicant") proposes to undertake Phase 1 of the Capital Conservation Bank ("Project") on approximately 137 acres in the lower Yolo Bypass; and

WHEREAS, the Project will create and restore suitable habitat for the giant garter snake, a species listed as "threatened" under the California Endangered Species Act and the federal Endangered Species Act; and

WHEREAS, the Project site and surrounding lands are currently subject to a Williamson Act contract that the Office of the County Counsel has determined does not authorize "open space" uses, as defined in California Government Code § 51201(o);

WHEREAS, consistent with the position of the California Department of Conservation, the Board of Supervisors has determined that it is necessary to amend the Williamson Act contract to specifically authorize "open space" uses in connection with the Project; and

WHEREAS, based on information provided by the California Department of Fish & Wildlife in a letter dated March 5, 2014 (attached) and other relevant information, the Board of Supervisors has determined that the Project site may properly be designated a "wildlife habitat area" pursuant to Government Code § 51201(j), which defines such an area as "a land or water area designated by a board or council, after consulting with and considering the recommendation of the Department of Fish and Game, as an area of importance for the protection or enhancement of the wildlife resources of the state"; and

WHEREAS, this determination is limited to the Project and the Project site, and it does not establish a precedent for future determinations of a similar nature with regard to other projects in other locations;

NOW, THEREFORE, the Board of Supervisors hereby finds and resolves as follows:

1. The foregoing recitals are hereby adopted as true and correct.

2. The Board of Supervisors hereby designates the Project site a "wildlife habitat area" within the meaning of Government Code § 51201(j).

3. The Board of Supervisors directs the Office of the County Counsel to prepare an amendment to the existing Williamson Act contract to implement this designation, which is of no force or effect until said amendment is fully executed and recorded.

PASSED AND ADOPTED by the Board of Supervisors of the County of Yolo, State of California, this 11 day of March, 2014, by the following vote:

AYES: **Rexroad, Provenza, Chamberlain, Villegas, Saylor.**
NOES: **None.**
ABSENT: **None.**
ABSTAIN: **None.**

Don Saylor, Chair
Yolo County Board of Supervisors

Attest:
Julie Dachtler, Deputy Clerk
Board of Supervisors

By _____
Deputy (Seal)

Approved as to Form
Robyn Truitt Drivon, County Counsel

By _____
Philip J. Pogledich, Senior Deputy

ERRATA TO THE INITIAL STUDY/

MITIGATED NEGATIVE DECLARATION

ZF 2011-0033 SMITH/CAPITAL CONSERVATION BANK

Page 2 Project Description

Amend the text as follows (deletions shown in **~~bold strikethrough~~** and added text shown in **bold underline)**:

The project is a Use Permit, Flood Hazard Development Permit, and Williamson Act Open Space Agreement for the first **~~and second~~** phase**~~s~~** (137 acres) of a 320-acre wildlife conservation bank for the giant garter snake, an endangered species. The property is located at the north end of County Road (CR) 107 and east of CR 152 within the Yolo Bypass area, approximately 10 miles southeast of the City of Davis (APN: 033-190-010) (Figures 1 and 2).

The first 137-acre phase of the conservation bank has been designed and is described in detail in many documents provided by the applicant, including a long term management plan for the project site following restoration activities. The second phase (and perhaps additional phases thereafter) will proceed if the first phase is successful. The federal and state permitting agencies will not allow a second phase to proceed unless the first phase has been proven to be a biological success, in terms of verifying a population of giant garter snakes in the newly created habitat.

~~Along with Phase 1, the second phase has also been designed and has been analyzed in enough detail (e.g., completed biological species surveys, wetlands delineation, and hydraulic modeling) for Yolo County's environmental analysis. Phase 1 and Phase 2 are also being considered together in this environmental analysis because Phase 1 by itself may not balance in terms of grading. Some soil may be exported tone of two identified spoils sites in Phase 2 fields to meet the cut and fill grading requirements for Phase 1. Thus, this analysis by Yolo County has taken into account development of the entire 320-acre project and the permits will be issued for the entire area, if the project is approved by the County.~~

~~However, as noted, the second phase cannot be initiated until the success of Phase 1 is documented. The wildlife permitting authorities (e.g., U.S. Fish and Wildlife Service and California Department of Fish and Wildlife) have not yet begun their analysis and approval process for the second phase, as they have with the first phase. The second phase of the project may require additional supplemental environmental analysis before these agencies can complete their review in the future, as allowed under the California~~

~~**Environmental Quality Act Guidelines (Section 15162, Subsequent EIRs and Negative Declarations) .**~~

A Use Permit pursuant to the Habitat Mitigation Ordinance of Yolo County, adopted by the Yolo County Board of Supervisors on January 29, 2013. For such projects that are 160 or more acres in size, **or request deviation from requirements or findings,** the Planning Commission shall act on the Use Permit in an advisory capacity to the Board of Supervisors, which shall make the final decision.

Page 5 Project Description

Amend the text as follows (deletions shown in ~~**bold strikethrough**~~ and added text shown in **bold underline)**:

Grading for Phase I would involve approximately 247,000 cubic yards of cut and fill. ~~**A series of "spoils sites" have been designated on Phase 2 lands, in case the soil on Phase 1 does not shrink. However, if there is a normal subsidence and/or shrinkage, then**~~ Phase 1 cut and fill grading would balance on the Phase 1 site. ~~**If grading does not balance, up to approximately 22,600 cubic yards (cy^3) of spoils from Phase 1 could be placed in Phase 2 (see Figure 4).**~~ In addition, ~~**2,400 cy^3 of soil generated by the grading of a small hill in Phase 2 would be placed in one of the spoils sites. A**~~ **a** barn on a four-foot high pad located at the northeastern edge of the Phase 2 site is subject to an ongoing enforcement action initiated by the Central Valley Flood Protection Board (CVFPB, 2011). To resolve the enforcement action, the agency has ordered the applicant to remove the unpermitted barn and the imported fill that was used to create the pad by November 1, 2014 (CVFPB, 2011). No County permits for the proposed project will be issued by Yolo County until this enforcement action is resolved.

Page 8 Project Description

Delete Figure 4.

Page 16 Air Quality

Amend the text as follows (deletions shown in ~~**bold strikethrough**~~ and added text shown in **bold underline)**:

Grading for Phase 1 would involve approximately 247,000 cubic years of cut and fill. ~~**Phase 1 by itself may not balance and could need to export up to approximately 22,600 cubic yards of soils to Phase 2.**~~

MITIGATION MONITORING AND REPORTING PROGRAM
CAPITAL CONSERVATION BANK USE PERMIT ZF# 2011-0033

Mitigation Number	Mitigation Measure	Enforcement and Monitoring Responsibility	Timing/ Implementation	Verification (Date and Initials)
Agricultural Resources				
AG-1*:*	*The applicant shall mitigate for the loss of agricultural land for each individual phase of the project according to the Agricultural Conservation Easement Program (Section 8-2.2416 of the Yolo County Code), or shall implement alternative mitigation subject to the approval of the Board of Supervisors. The applicant may acquire agricultural easements to mitigate for the first and second phases of the project by placing other portions of his family's lands under easement, or purchase easements from other owners in the area, as allowed under the ordinance.*	*Yolo County Planning and Public Works Department*	*Prior to issuance of Final Building Permit/Measure included as a Condition of Approval.*	
Air Quality				
AQ-1:	*a. Water active construction sites at least twice daily. Frequency should be based on the type of operation, soil, and wind exposure.* *b. Haul trucks shall maintain at least 2 feet of freeboard.* *c. Cover all trucks hauling dirt, sand, or loose materials.* *d. Apply non-toxic binders (e.g., latex acrylic copolymer) to exposed areas after cut and fill operations and hydroseed area.* *e. Apply chemical soil stabilizers on inactive construction areas (disturbed lands within construction projects that are unused for at least four consecutive days).* *f. Plant vegetative ground cover in disturbed areas as soon as possible.* *g. Cover inactive storage piles.* *h. Treat accesses to a distance of 100 feet from the paved road with a 6- to 12-inch layer of wood chips or mulch, or a 6-inch layer of gravel.*	*Yolo County Planning and Public Works Department*	*Prior to issuance of Final Building Permit/Measure included as a Condition of Approval.*	
AQ-2:	*a. Construction equipment exhaust emissions shall not exceed District Rule 2-11 Visible Emission limitations.* *b. Construction equipment shall minimize idling time to 10 minutes or less.* *c. The primary contractor shall submit to the District a*	*Yolo County Planning and Public Works Department*	*Prior to issuance of Final Building Permit/Measure included as a Condition of*	

Mitigation Number	Mitigation Measure	Enforcement and Monitoring Responsibility	Timing/ Implementation	Verification (Date and Initials)
	comprehensive inventory (i.e., make, model, year, emission rating) of all the heavy-duty off-road equipment (50 horsepower of greater) that will be used an aggregate of 40 or more hours for the construction project. District personnel, with assistance from the California Air Resources Board, will conduct initial Visible Emission Evaluations of all heavy duty equipment on the inventory list. *d. An enforcement plan shall be established to weekly evaluate project-related on- and off-road heavy-duty vehicle engine emission opacities, using standards as defined in California Code of Regulations, Title 13, Sections 2180 - 2194. An Environmental Coordinator, CARB-certified to perform Visible Emissions Evaluations (VEE), shall routinely evaluate project related off-road and heavy duty on-road equipment emissions for compliance with this requirement. Operators of vehicles and equipment found to exceed opacity limits will be notified and the equipment must be repaired within 72 hours. Construction contracts shall stipulate that at least 20% of the heavy-duty off-road equipment included in the inventory be powered by CARB-certified off-road engines, as follows:* *175 hp - 750 hp 1996 and newer engines* *100 hp - 174 hp 1997 and newer engines* *50 hp - 99 hp 1998 and newer engines* *In lieu of or in addition to this requirement, other measures may be used to reduce particulate matter and nitrogen oxide emissions from project construction through the use of emulsified diesel fuel and or particulate matter traps. These alternative measures, if proposed, shall be developed in consultation with District staff.*		*Approval.*	
Biological Resources				
BIO-1	*(a) To avoid and minimize take of giant garter snakes, the project shall incorporate the following measures consistent with terms and conditions listed in the programmatic formal consultation for USACE permitted projects (USFWS, 1997) throughout the construction of the*	*Yolo County Planning and Public Works Department*	*Prior to issuance of Final Building Permit/Measure included as a Condition of*	

Mitigation Number	Mitigation Measure	Enforcement and Monitoring Responsibility	Timing/ Implementation	Verifica-tion (Date and Initials)
	project and operation and maintenance of the proposed project. • *Ground-disturbing activity within 200 feet of potential giant garter snake aquatic habitat will be conducted between May 1 and October 1.* • *Dewatered habitat will be allowed to remain dry for 15 consecutive days after April 15 and prior to excavation or filling of the dewatered habitat.* • *All construction personnel will participate in a USFWS-approved worker environmental awareness program that will address the life history of the giant garter snake; the importance of irrigation canals, marshes, wetlands, and seasonally flooded areas such as rice fields, to the giant garter snake; and, the terms and conditions of the biological opinion. Proof of training will be submitted to the Sacramento Fish and Wildlife Office.* • *No more than two days prior to the commencement of construction activities, a Service-approved biologist shall inspect the site for burrows providing potential refuge for giant garter snakes. All burrows shall be individually marked to identify them as environmentally sensitive areas (ESAs). High visibility fencing will be erected between the ESAs and the active work area to protect them from encroachment by personnel and equipment. Fencing will be established at least 20 feet from the edge of the ESAs. The fencing shall be inspected before the start of each work day and maintained by the project proponents until the construction has proceeded for at least five days, providing snakes with an opportunity to vacate the work area. After five days the fencing will be removed and the burrows will be eliminated under the supervision of the monitoring biologist. The project area shall be re-inspected by the monitoring biologist whenever a lapse in construction activity of two weeks or greater has occurred.* • *The project site will be inspected by a qualified monitoring biologist approved by USFWS within 24 hours prior to the commencement of construction activities. A field report form*		*Approval.*	

Mitigation Number	Mitigation Measure	Enforcement and Monitoring Responsibility	Timing/ Implementation	Verifica-tion (Date and Initials)
	documenting the monitoring effort will be provided to the service within 24 hours of start of construction activities. The monitoring biologist will be available thereafter for consultation if a snake is encountered during construction activities, and the biologist shall have the authority to stop construction activities until appropriate corrective measures have been completed or until it has been determined that the snake will not be harmed. Snakes encountered will be allowed to move away from the construction activities on their own. Capture or relocation of trapped or injured giant garter snakes will only be attempted by individuals with a current ESA Section 10(a)(l)(A) recovery permit. The monitoring biologist will immediately report any incidental take to USFWS by telephone and written letter addressed to the chief, Endangered Species Division, within 1 working day. The action area will also be re-inspected whenever a lapse in construction activity of 2 weeks or greater has occurred. • *Clearing of wetland vegetation will be confined to the smallest area necessary to excavate the canal banks and install field drains or culverts and replace native fill. Sediment excavation will be accomplished using equipment (i.e., a hydraulic excavator) from the top of the bank to minimize impacts to giant garter snake habitat.* • *Heavy equipment moving to and from the project site will be restricted to established roadways.* *(b) Additional measures that will be implemented to avoid and minimize take of giant garter snakes include the following.* • *All vehicle traffic on access roads in the action area shall observe a speed limit of 10 mph to minimize the potential for vehicles to run over giant garter snakes basking on access roads. The speed limit will be posted throughout the project site.* • *Upland vegetation management will not occur more frequently than once every 2 years.* • *Livestock used for vegetation management will be limited to sheep or goats. All wetlands and canals will be fenced with*			

Mitigation Number	Mitigation Measure	Enforcement and Monitoring Responsibility	Timing/ Implementation	Verification (Date and Initials)
	temporary electric fencing during any livestock grazing to prevent unintended trampling of canal banks, disturbance to wetlands, or grazing of wetland vegetation. Livestock grazing will be limited to May 1 through October 1. Livestock grazing using goats or sheep only will be the preferred method of upland vegetation management. • *Vegetation will be mowed to a height of not less than 6 inches to minimize the potential for giant garter snake injury. Mowing will be limited to May 1 to October 1.* • *Mowing will be limited to hand held equipment such as weed eaters or similar equipment. Mowing using tractors or similar large equipment will not be permitted.* • *Excavated sediment will be removed from the project site and re-used on adjacent areas, outside the project boundary to avoid impacts to giant garter snake habitat.*			
BIO-2	*The applicant shall comply with all Conditions of Approval, avoidance measures, and terms and conditions set forth in the required federal and State permits issued for the project including the U.S. Fish and Wildlife Service and California Department of Fish and Wildlife.* *The applicant shall set construction limits on the plans, and on the site, that do not encroach on preserved wetlands or other water features. Preserved aquatic resources and riparian habitat shall be marked on the construction drawings. If needed, a visual or physical barrier will be installed along the perimeter of these features in order to avoid disturbance.* *Prior, during, and after grading and construction activities for the project, qualified biologist(s) or restoration ecologist(s) shall monitor construction activities in areas where wetlands and Special Status wildlife and plant species could be affected. The biologist(s) shall assist the construction crew, as needed, to comply with all project implementation restrictions and guidelines. The biologist(s) shall attend pre-construction meetings and conduct environmental*	*Yolo County Planning and Public Works Department*	*Prior to any ground disturbance/Measure included as a Condition of Approval.*	

Mitigation Number	Mitigation Measure	Enforcement and Monitoring Responsibility	Timing/ Implementation	Verification (Date and Initials)
	trainings regarding the location of wetlands or other water features, as well as other sensitive resources. In addition, the biologist(s) shall be responsible for ensuring that the contractor maintains the staked and flagged perimeters of the construction area and staging areas adjacent to sensitive biological resources. The biologist(s) shall be on site during all construction activity with the authority to temporarily stop all construction, if violations of any of the measures or conditions are observed. If construction is stopped, representatives of the appropriate agencies, including Yolo County Planning and Public Works, shall be immediately notified. *The applicant shall provide periodic progress reports to the Planning and Public Works Department during construction to document compliance with these mitigation measures and conditions required by other agencies. The applicant shall also provide documentation of the constructed project to the Planning and Public Works Department within thirty days of project completion. Documentation included in the progress reports and the completion notice may include, but shall not be limited to, on-site reports from supervisors, biologists, and other applicant representatives, surveyed elevations, photographs, or other materials sufficient to provide a record of condition compliance and constructed as-built conditions.*			
BIO-3	*Prior to any site grading or construction activity in both the breeding and non-breeding season, the applicant shall conduct burrowing owl surveys in conformance with CDFG burrowing owl recommendations (CDFG, 2012). If burrowing owls are detected during preconstruction surveys, the applicant shall implement the following mitigation measures, consistent with CDFG recommendations:* *(a) Avoid occupied burrows during the burrowing owl breeding season, February 1 through August 31.* *(b) Prior to this breeding season, September 1 through January 31, occupied burrows should be avoided. If avoidance is not possible, owls may be evicted, and the applicant must provide compensation for loss of burrows per CDFG standards.*	*Yolo County Planning and Public Works Department*	*Prior to any ground disturbance/Measure included as a Condition of Approval.*	
BIO-4	*Harvesting of any native plant materials such as tules (Scirpus*	*Yolo County Planning*	*Prior to any ground*	

Mitigation Number	Mitigation Measure	Enforcement and Monitoring Responsibility	Timing/ Implementation	Verification (Date and Initials)
	acutus) from other portions of the applicant's property for transplanting on the project site shall be accomplished by hand using shovels. The harvesting shall be accompanied by a biological monitor to ensure that no jurisdictional wetlands or sensitive species are affected.	*and Public Works Department*	*disturbance / Measure included as a Condition of Approval.*	
Cultural Resources				
CUL-1	*(a) Prior to issuance of any grading permit(s) by Yolo County for Phase 2, the applicant shall submit a cultural resources survey or other evidence that indicates the probable lack of resources for the Phase 2 area, including plans to mitigate any potential impacts to uncovered resources or remains if they should be encountered during grading.* *(b) Prior to the issuance of any grading permit for Phase 1 that includes any portion of the Phase 2 area (such as taking fill for Phase 1), a similar report shall be completed for that portion of Phase 2.*	*Yolo County Planning and Public Works Department*	*Prior to any ground disturbance/Measure included as a Condition of Approval.*	
CUL-2	*(a) Implement Mitigation Measure CUL-1, above.* *(b) Section 7050.5 of the California Health and Safety Code states that, when human remains are discovered, no further site disturbance shall occur until the county coroner has determined that the remains are not subject to the provisions of Section 27491 of the Government Code or any other related provisions of law concerning investigation of the circumstances, manner and cause of any death, and the recommendations concerning the treatment and disposition of the human remains have been made to the person responsible for the excavation, in the manner provided in Section 5097.98 of the Public Resources Code. If the coroner determines that the remains are not subject to his or her authority and the remains are recognized to be those of a Native American, the coroner shall contact the Native American Heritage Commission within 24 hours.*	*Yolo County Planning and Public Works Department*	*Prior to any ground disturbance/Measure included as a Condition of Approval.*	

COUNTY RECORDER
Filing Requested by:

Yolo County Planning & Public Works Dept.
Attn: Eric Parfrey
Name
292 West Beamer Street
Address
Woodland, CA 95695
City, State, Zip

FILED
YOLO COUNTY CLERK/RECORDER
MAR 17 2014
FREDDIE OAKLEY, CLERK
BY _____ DEPUTY
LINDA SMITH

Notice of Determination

To: **Yolo County Clerk**
625 Court Street
Woodland, CA 95695

State Clearinghouse

Subject: **Notice of Determination in compliance with Section 21108 or 21152 of the Public Resources Code.**

Project Title: Zone File #2011-0033

State Clearinghouse Number: 2013042067

Applicant: Dustin Smith
Capital Conservation Bank
7803 Madison Ave., Suite 700 C
Citrus Heights, CA

Owner: Ron and Clover Smith

Project Location: The property is located at the north end of County Road (CR) 107 and east of CR 152 within the Yolo Bypass area, approximately 10 miles southeast of the City of Davis (APN: 033-190-010).

Project Description:

The application is a request for a Use Permit, a Flood Hazard Development Permit, and a Williamson Act Open Space Agreement, to construct the first phase (137 acres) of a wildlife conservation bank for the giant garter snake, an endangered species. A second phase will proceed if the first phase is successful, subject to further County approvals and associated environmental review.

This is to advise that the Yolo County Board of Supervisors has adopted a Mitigated Negative Declaration for the above-described project on March 11, 2014, and has made the following determinations regarding the above-described project:

1. **With implementation of mitigation measures for agricultural resources, air quality, biological resources, and cultural resources the project will not cause a new significant effect on the environment or substantially increase the severity of a previously identified significant environmental effect.**
2. **A Mitigated Negative Declaration was prepared for this project pursuant to the provisions of CEQA and adopted by the County.**
3. **Mitigation measures were made a condition of the approval of the project and a Mitigation Monitoring and Reporting Program was adopted.**

This is to certify that the Mitigated Negative Declaration with comments and responses and record of project approval is available to the General Public for review at the Yolo County Planning and Public Works Department located at 292 West Beamer Street, Woodland, California.

Signature (Public Agency) _____
Name/Title: **Eric Parfrey, Principal Planner**

Date: **March 14, 2014**
Phone: **(530) 666-8043**

POSTED MAR 17 2014 TO _____

N - 14 - 19

Time Set # 14.

Board of Supervisors Meeting

Meeting Date: 03/11/2014

Brief Title: Capital Conservation Bank

From: Ed Smith, Interim Director, Planning & Public Works

Staff Contact: Eric Parfrey, Principal Planner, Planning & Public Works, x8043

Information

Subject

Hold a public hearing to consider a Use Permit, a Flood Hazard Development Permit and a resolution authorizing a Williamson Act Open Space Agreement to construct Phase 1 (137 acres) of a habitat conservation bank for the endangered giant garter snake in the Yolo Bypass, approximately 10 miles southeast of the city of Davis. A Mitigated Negative Declaration has been prepared pursuant to CEQA for the project. (No general fund impact) (Smith/Parfrey)

Recommended Action

A. Hold a public hearing and receive comments on Phase 1 of the project (Attachments A and B);

B. Determine that the Mitigated Negative Declaration with the Errata and the Mitigation Monitoring and Reporting Program (Attachment C) is the appropriate level of environmental documentation for Phase 1 in accordance with the California Environmental Quality Act (CEQA) and CEQA Guidelines;

C. Adopt Findings for Phase 1 (Attachment D);

D. Approve the Use Permit and Flood Hazard Development Permit with the Conditions of Approval for Phase 1 of the project (Attachment E); and

E. Approve the Resolution authorizing a Williamson Act Open Space Agreement for Phase 1 (Attachment F).

Strategic Plan Goal(s)

Advance innovation
Champion job creation and economic opportunities
Preserve and support agriculture
Protect open space and the environment

Reason for Recommended Action/Background

At its July 11, 2013 public hearing, the Planning Commission voted 4-3-0 to recommend denial of the project (AYES: Bertolero, Reed, Williams, and Kasbergen; NOES: Kimball, Vergis, and Burton). The Commission's recommendation was primarily based on concerns about the loss of farmland, the lack of details regarding agricultural mitigation, and the biological necessity for the conservation bank.

Since the Planning Commission's decision, staff has worked with the applicant to address each of the issues above, as follows:

- The on-site soils are not prime farmland (Class IV, Storie Index 34). Agricultural productivity is further limited by increasingly irregular flows through the Yolo Bypass, as well as cooler temperatures due to the site's proximity to the Delta. In addition, this property is surrounded on three sides by existing wildlife and/or open space easements, which also restrict the available range of farm practices.
- The applicant has agreed to place 137 acres of property into an agricultural conservation easement on land

that they own east of the proposed garter snake mitigation, along the toe drain of the Bypass. They have asked that the easement be held by the County, with an option (if determined by the Office of the County Counsel to be legally viable) to move the easement to high quality soils in the Clarksburg area in the future.

- The proposed garter snake mitigation site is supported by the US Fish and Wildlife Service.

In addition, staff and the applicant have negotiated a number of "net gains" to benefit the public, as follows:

- The applicant would pay a contribution to the County of 1% of the gross proceeds each sale of the first 68.5 mitigation credits, and 2% of the gross proceeds on the sale of each credit for the remaining 68.5 credits. This is expected to generate approximately $100,000 over the life of the project, which would be deposited into an account exclusively used to benefit local agriculture.
- The applicant would provide three mitigation credits for use by the County on future road improvements, bridge construction, or other public works/facility projects. This could save the County an estimated $150,000 in lieu of paying for mitigation elsewhere.

The proposed garter snake conservation mitigation bank is consistent with the County General Plan, the open space provisions of the Williamson Act, and the applicable County development regulations, including the County ordinance regulating habitat mitigation projects and the Flood Hazard Development ordinance. In addition, the proposed project would be required to comply with multiple layers of federal, State, and local plans and laws.

BACKGROUND

The applicant submitted an application for a Flood Hazard Development Permit in June, 2011. The project was subsequently delayed for over a year as the applicant negotiated with the Central Valley Flood Protection Board over a barn built on a four-foot high pad located at the northeastern edge of the Phase 2 site. To resolve the enforcement action, the agency ordered the applicant to remove the un-permitted barn and the imported fill that was used to create the pad by November 1, 2014. During the intervening period the County adopted the Habitat Mitigation Ordinance in January, 2013, which requires the applicant to proceed through the Use Permit process,with the Board of Supervisors serving as the decision-making body.

The Planning Commission heard this application on May 9, 2013 and again on July 11, 2013. Between the first and second hearings, the applicant modified the project to request approval of only Phase 1 at this time. As stated previously, the Planning Commission recommended to deny the project on a 4-3 vote.

Ordinarily, the Commission would have served as the decision-making body, as the Habitat Mitigation Ordinance allows the Planning Commission to approve projects smaller than 160 acres. However, this proposal requires final approval by the Board of Supervisors because the applicant is proposing an alternative approach to mitigating the conversion of farmland in lieu of mitigating in accordance with the County's Agricultural Conservation Easement Program (Yolo County Code § 8-2.2416), as described below.

PROJECT DESCRIPTION

The project includes a Use Permit, a Flood Hazard Development Permit, and a Williamson Act Open Space Agreement, to construct the first phase (137 acres) of a 320-acre wildlife conservation bank for the giant garter snake, an endangered species. The project is part of a larger 1,242-acre ranch owned by the Smith family. The first phase of 137 acres has been designed; the applicant will seek approval of a second phase if the first phase is successful, which will require future discretionary and environmental review by the County.

The property is located at the north end of County Road (CR) 107 and east of CR 152 within the Yolo Bypass area, approximately 10 miles southeast of the City of Davis (APN: 033-190-010) (Attachment A). Land uses that surround the project site include adjacent agricultural operations, including rice and grain fields, and the established Pope Ranch Conservation Bank (Wildlands, Inc.), located to the west, also developed as a giant garter snake mitigation bank.

The conceptual site plan for the Phase 1 of the project shows construction of a mosaic of wetlands and uplands to create suitable habitat for the giant garter snake. Approximately 78 acres of wetlands would be graded interspersed with 57 acres of mounded upland habitat. The project would create a mix of wetland types with variable water depth

and duration of ponding, ranging from shallow, seasonal wetlands to perennial wetlands with associated deep channels. The upland habitat would be graded to include mounds above variety of flood elevations, including the 100-year flood elevation to provide opportunities for the snakes to escape floods and to possibly capture snakes that are transported down the Yolo Bypass during high flow events. The shallow upland benches along the perimeter of the wetlands channels would be planted with tules. The shallow perimeters of the wetlands would be planted with plants such as rushes and creeping spikerush. Phase I would take approximately 101 days to construct. Grading for Phase I would involve approximately 247,000 cubic years of cut and fill, however, no soil would leave the property.

If Phase 1 is deemed a biological success by the U.S. Fish and Wildlife Service, Phase 2 of the project may (if all approvals are obtained, including amendment of this Use Permit) proceed with construction of an additional 197 acres of GGS habitat, with similar portions of wetlands and upland habitat as in Phase 1. Phase 2 construction would take a little longer, about 125 days and would involve an additional approximately 233,000 cubic years of balanced cut and fill. The applicant is not seeking approval for Phase 2 at this time and, as noted, it is uncertain for a number of reasons. The federal and State permitting agencies will not allow a second phase to proceed unless the first phase has been proven to be a biological success, in terms of verifying a population of giant garter snakes in the newly created habitat.

To date, the applicant has made steps in obtaining approvals from various Federal agencies for Phase 1, including: the U.S. Army Corps of Engineers (acceptance of wetland delineation); the U.S. National Marine Fisheries Service (issuance of a "no jeopardy" biological opinion related to fish species); and the United States Fish and Wildlife Service (issuance of a "no jeopardy" biological opinion related to the giant garter snake). The second of the two wildlife permitting authorities (the California Department of Fish and Wildlife) has considered Phase 1 and the associated Section 2081 "take permit," and the agency's comments are summarized below.

ANALYSIS

An Initial Study/Mitigated Negative Declaration (MND) (Attachment C) was prepared for Phase 1 and 2 of the project. The 30-day review period for the MND began on April 24, 2013 and ended on May 24, 2013. The MND was circulated to a wide range of agencies and individuals, including neighbors, the Farm Bureau, local environmental organizations, the federal and State wildlife agencies, the Central Valley Flood Protection Board, the State and federal Water Contractors, and others.

Comments on the MND and/or the project have been received from the Central Valley Regional Water Quality Control Board, the Delta Protection Commission, the California Department of Fish and Wildlife, the California Department of Water Resources; the Yolo County Natural heritage Program; Reclamation District 2068; and a neighboring property owner (Attachment G). (At the time of this writing no correspondence has been received from the U.S. Fish and Wildlife Service and no recent, updated letter from CDFW has been received.)

The following issues are summarized from the MND, and updated according to more recent negotiations with the applicant.

Biological Impacts

As analyzed in the Mitigated Negative Declaration (MND), staff has determined that the project could have impacts on two species of concern (giant garter snake and burrowing owl) as well as wetlands and some plant species. Mitigation measures required by the MND would reduce those impacts to a less than significant level.

Construction of the project has the potential to affect any giant garter snakes that currently occupy the site. Implementation of standard avoidance measures recommended by the U.S. Fish and Wildlife Service have been incorporated in Mitigation Measure BIO-1 in the MND. The applicant has prepared an Interim Management Plan and a Long Term Specific Management Plan which outline the details of how the property will be maintained for the benefit of the giant garter snake. The two plans describe responsibilities that include, for example, management and maintenance of canals, gates, pumps, flashboard risers, and similar water management infrastructure; and management of wetland and upland vegetation to maintain habitat suitability for giant garter snake.

The other animal species that could be affected is the burrowing owl. A mitigation measure requires that prior to any site grading or construction activity in both the breeding and non-breeding season, the applicant shall conduct

burrowing owl surveys in conformance with CDFW burrowing owl recommendations.

The applicant is not required to mitigate for loss of Swainson's hawk foraging habitat. According to the biological analysis, high-quality foraging habitat is limited in the vicinity of the site. The majority of the site and immediately surrounding areas are actively farmed rice, fallowed agricultural land, or wetlands. Rice and wetlands provide little to no foraging value due to poor accessibility to Swainson's hawk and relatively low prey populations. Fallowed agricultural land can support a constant prey base, but the vegetation structure (typically characterized by tall weeds) inhibits effective Swainson's hawk foraging.

Approval of the project requires approvals by the two main wildlife agencies involved, the U.S. Fish and Wildlife Service (FWS) and the California Department of Fish and Wildlife (CDFW), since the garter snake is listed by both the federal and the state Endangered Species Act (ESA). However, the two Acts and the agencies have differing legal and bureaucratic requirements for approving "take" permits and approving the actual mitigation bank itself and authorizing mitigation credits. It is possible that the FWS could authorize the bank for selling credits under the federal ESA, and the CDFW could issue a "take" permit for the project but decline to approve the bank for purposes of mitigation under the state ESA. If this occurs, there could be ramifications to the County Natural Heritage Program in terms of receiving credit for the giant garter snake credits, as discussed further below.

Two letters have been received from the California Department of Fish and Wildlife (Attachment G), one from May, 2013 and a more recent letter. The recent letter briefly states that the project's request for a Section 2081 take permit is still pending as the CDFW is requesting additional information. Regarding the application for the CDFW to consider approving the bank itself (under a new process initiated by the agency sometime last year), a formal application has apparently not been completed and the process has not yet begun

Staff spoke with Brian Hansen of the U.S. Fish and Wildlife Service (FWS) at the time of the Planning Commission hearings in 2013. Mr. Hansen has been working with the applicant for some time. Mr. Hansen acknowledged that there has been a difference of opinion between the two wildlife agencies as to the viability, and advisability, of approving any further GGS banks in the lower Yolo Bypass area. FWS is reviewing the applicant's Bank Enabling Instrument (the main FWS approval document) and indicated that the document could be signed by the agency soon.

Mr. Hansen said his office believes the adjacent Pope Ranch GGS bank failed because of flooding issues, which have been fully addressed in the current proposal under consideration. The agency is supportive of the improved habitat design of the proposed project, which includes higher mounds above the flood levels. Hansen says the GGS has evolved in flooding environments and has adapted to flooding events. He indicated that his office's position is that there is no reason not to provide additional conservation areas for the snake.

Correspondence was also received last year from the Executive Director of the Yolo County Natural Heritage Program (YNHP), along with a technical report related to the GGS (Attachment H). The YNHP is preparing a Habitat Conservation Plan/Natural Communities Conservation Plan for the county, which is now in draft form. The potential for a conflict with the Yolo Natural Heritage Program is difficult to assess at the present time for reasons described in the comments of the Executive Director of the Program. Currently, the draft YNHP does not contemplate the preservation of giant garter snake habitat (or the creation of conservation banks) in the Yolo Bypass. This is due in part to uncertainty regarding the biological value of such habitat, as well as uncertainty about whether the California Department of Fish and Wildlife and the USFWS will allow the YNHP to mitigate the loss of giant garter snake habitat (or otherwise receive credit toward satisfying permit requirements) by preserving and/or restoring habitat in the Yolo Bypass.

If this project is approved by USFWS, staff believes that the USFWS would not later preclude the YNHP from proposing mitigation or otherwise receiving credit for restored lands within the Yolo Bypass benefiting the giant garter snake. The apparent support of USFWS for the project is therefore an indication that the agency would support related changes to the YNHP. If that occurs, the project will be consistent with the YNHP upon its eventual approval (anticipated in 2015) and may contribute to achievement of its preservation requirements.

The applicant notes that although the service area (the area within which eligible projects could buy credits) for the proposed GGS conservation bank includes only the portion of Yolo County south of I-80, the USFWS routinely allows development projects that need to mitigate for GGS impacts to use established banks even if the projects are located outside an approved service area. In addition, the applicant has offered to donate mitigation credits from the

proposed GGS bank to the County to help mitigate for future County projects (Attachment H).

Agricultural Impacts

The 137-acre project site previously supported rice production (now fallowed). Previous uses have included farming of wheat, Sudan grass, rye grass, corn, and tomatoes. As previously stated, the site is comprised on non-prime soils, the productivity of which are further limited by irregular flows, temperature, and the proximity of adjoining habitat easements.

As required under the County Code, the applicant has submitted an Economic Analysis of the impacts related to converting 137 acres from rice production to habitat (Attachment G). The analysis concludes the following:

- The project would reduce agricultural output by approximately $122,000 annually, if the site had been in production of rice. The reduction in farming would lower annual employment by 0.6 full time equivalent (FTE) jobs. The analysis projects the following economic impacts of constructing the conservation bank.
- The cumulative cost of planning, design, and construction for the project is estimated to cost around $8,200/acre. During the construction the project would add to County employment by approximately 22.4 full time equivalent employees.
- Once restoration is completed, annual maintenance and biological monitoring activities will continue on the property for a minimum of five years. Site management will occur in perpetuity. The yearly monitoring is expected to be approximately $25,000. This includes biological monitors and species surveys. During the post construction phase and during the minimum five year management period the site would contribute 1.6 full time equivalent (FTE) jobs annually. After the fifth year the site would contribute to 0.8 FTE annually.
- The report notes that "The agricultural production of the property has net revenues of approximately $1.1 million on crops in an average growing year. Due to the conditions of soils, the farming has had limited success. Not to mention the difficulty with the migratory black bird population has pushed corn to be the crop of choice."

Mitigation Measure AG-1 in the MND requires that the applicant mitigate for the loss of agricultural land according to the Agricultural Conservation Easement Program (Section 8-2.2416 of the Yolo County Code), or implement alternative mitigation subject to the approval of the Board of Supervisors. The applicant is proposing an alternative mitigation program that would place at least 137 acres of another portion of the family's lands along the toe drain into a permanent agricultural conservation easement held by a certified land trust, or held by the County along with an endowment. A provision of the easement would allow the future transfer of this easement to a property elsewhere in the County outside the Bypass, if the applicant purchases such a property, e.g., in the Knights Landing or Clarksburg area. The details of the agricultural conservation easement would be finalized prior to the issuance of any grading permits for the first phase of the project.

The applicant's farmland in the Bypass is already under a flood easement, and the County's Agricultural Conservation Easement Program does not allow mitigation on lands that already have flood or other types of easements. To use some of the family farm for mitigation would require an exception to the Ordinance by the Board of Supervisors. Staff supports the exception, as it would be reasonable to allow for farm conversion occurring in the Bypass to also be mitigated within the Bypass.

The project site is under a Williamson Act contract. The Williamson Act enables local governments to enter into contracts with private landowners for the purpose of restricting specific parcels of land to agricultural or, if certain criteria are met, "open space" as defined in Government Code Section 51201(o). If the project is approved by the Board of Supervisors, a Williamson Act Open Space agreement will be executed.

Flooding Impacts

The project requires the issuance of a Flood Hazard Development Permit according to Section 8-3.401 of the Yolo County Code. The Floodplain Administrator must determine that the proposed development does not adversely affect the carrying capacity of areas where base flood elevations have been determined but a floodway has not been designated. For purposes of the Code, "adversely affects" means that the cumulative effect of the proposed development when combined with all other existing and anticipated development will increase the water surface

elevation of the base flood more than one foot at any point.

The applicant has submitted a hydraulic analysis that has been peer-reviewed by an engineering firm retained by the County. The applicant study concludes that development of the project would "affect minor local changes in the water surface elevation and water velocity during the most probable 100-year flood but will only impact the water surface elevations or water velocities at the edge (banks) of Yolo Bypass if project vegetation is allowed to grow without annual grazing and then only by 0.01-foot." The peer review agreed and states “Provided that annual grazing is maintained, construction of the Capital Conservation Bank will not significantly increase flood risks to the health and safety of the public, will not significantly increase the risk of flood damage to structures and properties, and will not significantly increase risks to off site channel stability.…If the project is proposed without annual grazing, appropriate agencies should be consulted and the sufficiency of the levee to maintain the minimum required level of protection should be evaluated prior to allowing the project to proceed without annual grazing.”

A Condition of Approval has been included in the Use Permit/Flood Hazard Development Permit to require adequate vegetation maintenance. In addition, Mitigation Measure BIO-1 includes measures that restrict the type of maintenance on the site.

A letter was submitted by the Central Valley Flood Protection Board (Attachment G). The letter requested that the MND include mitigation measures that address channel and levee improvements and maintenance to prevent and/or reduce hydraulic impacts. The letter also asked that the MND describe how the proposed GGS mitigation bank will impact the Yolo Bypass levee maintenance including grouting burrows on levees, mowing, dragging and burning levee vegetation. A separate e-mail was also received from a staff member of the California Department of Water Resources on the same issue (Attachment G).

The applicant will be required to receive approval from the Flood Board of an encroachment permit to construct within the floodway. As noted above, a Condition of Approval has been included in the Use Permit/Flood Hazard Development Permit to require adequate vegetation maintenance. The specific details of how vegetation will be managed and how the levee will be maintained is described in the Interim Management Plan and the Long Term Specific Management Plan that are approved as part of the conservation bank. These management details are not appropriate to be included as mitigation measures but can be added as conditions of approval to the encroachment permit that is issued by the Flood Board.

A phone call was received from the general manager of Reclamation District 2068, regarding similar issues. The manager provided copies of two letters sent to the Central Valley Flood Protection Board on another habit project (included at the end of Attachment G). The manager is quite concerned that a Condition of Approval that restricts mowing and vegetation management within the conservation bank to only using manual labor and small ground maintenance (to protect the snakes) could have the effect of encouraging overgrown vegetation which would affect flood control. The manager states that this is a serious problem in a GGS conservation bank located within the Sutter Bypass. As recommended by the District, the draft conditions require the applicant to submit an annual report to the County on the status of vegetation maintenance, and allows the County to enter the property and maintain the vegetation (at the owner's expense) if vegetation is not adequately maintained.

Collaborations (including Board advisory groups and external partner agencies)

Staff has coordinated with numerous agencies in making this recommendation, including Reclamation District No. 2068, Yolo Natural Heritage Program, Delta Protection Commission, Central Valley Regional Water Quality Control Board, California Department of Fish and Wildlife, Central Valley Flood Protection Board, California Department of Water Resources, and the US Fish and Wildlife Service.

This item was presented to both the South Davis Citizens Advisory Committee and the Clarksburg Citizens Advisory Committee. Neither group chose to make a recommendation regarding the proposal.

County Counsel has extensively worked with staff in developing this staff report.

Fiscal Impact

No Fiscal Impact

Fiscal Impact (Expenditure)

Total cost of recommended action:	$ 0
Amount budgeted for expenditure:	$ 0
Additional expenditure authority needed:	$ 0
On-going commitment (annual cost):	$

Source of Funds for this Expenditure

General Fund	$0

Explanation (Expenditure and/or Revenue)

Attachments

Att. A. Vicinity and Land Uses
Att. B. Capital Conservation Bank
Att. C.Errata, MMRP, MND
Att. D. Findings
Att. E. Conditions
Att. F. Williamson Act Open Space Resolution
Att. G - Letters

Form Review

Inbox	Reviewed By	Date
David Morrison	David Morrison	03/03/2014
Ed Smith	Ed Smith	03/03/2014 08:15 AM
Ivan Vonk	Ivan Vonk	03/04/2014 07:53 AM
County Counsel	Phil Pogledich	03/06/2014 11:30 AM
Form Started By: Eric Parfrey		Started On: 03/15/2013 11:23 AM
Final Approval Date: 03/06/2014		

ATTACHMENT E

CONDITIONS OF APPROVAL
ZONE FILE #2011-0033

CAPITAL CONSERVATION BANK
USE PERMIT/FLOOD HAZARD DEVELOPMENT PERMIT

1. Failure to comply with any of the stipulated Conditions of Approval for this Use Permit/ Flood Hazard Development Permit shall result in the permit being deemed as null and void.

2. Work on the project shall start within one year, or a request for an extension up to a maximum of six months shall be filed, or the permit will expire one year from the date of issuance of the permit.

3. A Storm Water Pollution Prevention Plan (SWPPP) will be required prior to grading permit issuance.

4. The applicant shall receive all other required permits from other public agencies prior to any grading commencing. Proof of all required agency permits shall be submitted to Yolo County Planning and Public Works Department prior to issuance of grading permits.

5. Prior to issuance of any grading permits, any outstanding fees owed to the Planning and Public Works department shall be paid in full.

6. Each year the applicant shall provide a copy of the annual report to the Yolo County Floodplain Administrator of the long-term conservation bank management plan which addresses vegetation management. Any vegetation within the conservation bank which interferes with the successful execution, functioning, maintenance, or operation of the plan of flood control must be removed by the applicant at applicant's expense upon request by the Yolo County Floodplain Administrator. If the applicant does not remove such vegetation upon request within twenty-one calendar days, the Yolo County Floodplain Administrator reserves the right to arrange for the removal of the vegetation and bill the applicant for all labor, material, and equipment expenses.

7. The applicant shall provide periodic progress reports to the Planning and Public Works Department during construction to document compliance with the mitigation measures outlined in these Conditions of Approval. The applicant shall also provide documentation of the constructed project to the Planning and Public Works Department within thirty days of project completion. Documentation included in the progress reports and the completion notice may include, but shall not be limited to, on-site reports from supervisors, biologists, and other applicant representatives, surveyed elevations, photographs, or other materials sufficient to provide a record of condition compliance and constructed as-built conditions.

8. The applicant shall comply with all conditions of approval, avoidance measures, and terms and conditions set forth in the federal and State permits that must be issued for the project, including any permits issued by the U.S. Army Corps of Engineers; the

U.S. Fish and Wildlife Service; the California Department of Fish and Wildlife; the Regional Water Quality Control Board; the State Water Resources Control Board; the Central Valley Flood Protection Board; and any other State or federal agencies with jurisdiction over the project.

9. In accordance with Yolo County Code Section 8-2.2415, the applicant shall agree to indemnify, defend, and hold harmless the County or its agents, officers and employees from any claim, action, or proceeding (including damage, attorney fees, and court cost awards) against the County or its agents, officers, or employees to attach, set aside, void, or annul an approval of the County, advisory agency, appeal board, or legislative body concerning the permit or entitlement when such action is brought within the applicable statute of limitations.

   The County shall promptly notify the applicant of any claim, action or proceeding and that the county cooperates fully in the defense. If the County fails to promptly notify the applicant of any claim, action, or proceeding, or if the County fails to cooperate fully in the defense, the applicant shall not thereafter be responsible to defend, indemnify, or hold the County harmless as to that action.

   The County may require that the applicant post a bond in an amount determined to be sufficient to satisfy the above indemnification and defense obligation.

   Failure to comply with the CONDITIONS OF APPROVAL as approved by the county may result in the following actions:

   legal action;
   non-issuance of future building permits.

Mitigation Measures from the Mitigated Negative Declaration

10. Mitigation Measure AG-1:

    The applicant shall mitigate for the loss of agricultural land for each individual phase of the project according to the Agricultural Conservation Easement Program (Section 8-2.2416 of the Yolo County Code), or shall implement alternative mitigation subject to the approval of the Board of Supervisors. The applicant may acquire agricultural easements to mitigate for the first and second phases of the project by placing other portions of his family's lands under easement, or purchase easements from other owners in the area, as allowed under the ordinance.

[**Note**: In approving this project, the Board adopted findings accepting the alternative mitigation proposal described in the staff report. The easement or deed restrictions that implement this mitigation must return to the Board of Supervisors for approval (including approval of the location of the mitigation lands) prior to the issuance of grading permits or the commencement of grading for the project.]

11. Mitigation Measure AQ-1:

    a. Water active construction sites at least twice daily. Frequency should be based on the type of operation, soil, and wind exposure.
    b. Haul trucks shall maintain at least 2 feet of freeboard.
    c. Cover all trucks hauling dirt, sand, or loose materials.

d. Apply non-toxic binders (e.g., latex acrylic copolymer) to exposed areas after cut and fill operations and hydroseed area.
e. Apply chemical soil stabilizers on inactive construction areas (disturbed lands within construction projects that are unused for at least four consecutive days).
f. Plant vegetative ground cover in disturbed areas as soon as possible.
g. Cover inactive storage piles.
h. Treat accesses to a distance of 100 feet from the paved road with a 6- to 12-inch layer of wood chips or mulch, or a 6-inch layer of gravel.

12. Mitigation Measure AQ-2:

a. Construction equipment exhaust emissions shall not exceed District Rule 2-11 Visible Emission limitations.
b. Construction equipment shall minimize idling time to 10 minutes or less.
c. The primary contractor shall submit to the District a comprehensive inventory (i.e., make, model, year, emission rating) of all the heavy-duty off-road equipment (50 horsepower of greater) that will be used an aggregate of 40 or more hours for the construction project. District personnel, with assistance from the California Air Resources Board, will conduct initial Visible Emission Evaluations of all heavy duty equipment on the inventory list.
d. An enforcement plan shall be established to weekly evaluate project-related on- and off-road heavy-duty vehicle engine emission opacities, using standards as defined in California Code of Regulations, Title 13, Sections 2180 - 2194. An Environmental Coordinator, CARB-certified to perform Visible Emissions Evaluations (VEE), shall routinely evaluate project related off-road and heavy duty on-road equipment emissions for compliance with this requirement. Operators of vehicles and equipment found to exceed opacity limits will be notified and the equipment must be repaired within 72 hours. Construction contracts shall stipulate that at least 20% of the heavy-duty off-road equipment included in the inventory be powered by CARB-certified off-road engines, as follows:

175 hp - 750 hp 1996 and newer engines
100 hp - 174 hp 1997 and newer engines
50 hp - 99 hp 1998 and newer engines

In lieu of or in addition to this requirement, other measures may be used to reduce particulate matter and nitrogen oxide emissions from project construction through the use of emulsified diesel fuel and or particulate matter traps. These alternative measures, if proposed, shall be developed in consultation with District staff.

13. Mitigation Measure BIO-1:

(a) To avoid and minimize take of giant garter snakes, the project shall incorporate the following measures consistent with terms and conditions listed in the programmatic formal consultation for USACE permitted projects (USFWS, 1997) throughout the construction of the project and operation and maintenance of the proposed project.

- Ground-disturbing activity within 200 feet of potential giant garter snake aquatic habitat will be conducted between May 1 and October 1.

- Dewatered habitat will be allowed to remain dry for 15 consecutive days after April 15 and prior to excavation or filling of the dewatered habitat.
- All construction personnel will participate in a USFWS-approved worker environmental awareness program that will address the life history of the giant garter snake; the importance of irrigation canals, marshes, wetlands, and seasonally flooded areas such as rice fields, to the giant garter snake; and, the terms and conditions of the biological opinion. Proof of training will be submitted to the Sacramento Fish and Wildlife Office.
- No more than two days prior to the commencement of construction activities, a Service-approved biologist shall inspect the site for burrows providing potential refuge for giant garter snakes. All burrows shall be individually marked to identify them as environmentally sensitive areas (ESAs). High visibility fencing will be erected between the ESAs and the active work area to protect them from encroachment by personnel and equipment. Fencing will be established at least 20 feet from the edge of the ESAs. The fencing shall be inspected before the start of each work day and maintained by the project proponents until the construction has proceeded for at least five days, providing snakes with an opportunity to vacate the work area. After five days the fencing will be removed and the burrows will be eliminated under the supervision of the monitoring biologist. The project area shall be re-inspected by the monitoring biologist whenever a lapse in construction activity of two weeks or greater has occurred.
- The project site will be inspected by a qualified monitoring biologist approved by USFWS within 24 hours prior to the commencement of construction activities. A field report form documenting the monitoring effort will be provided to the service within 24 hours of start of construction activities. The monitoring biologist will be available thereafter for consultation if a snake is encountered during construction activities, and the biologist shall have the authority to stop construction activities until appropriate corrective measures have been completed or until it has been determined that the snake will not be harmed. Snakes encountered will be allowed to move away from the construction activities on their own. Capture or relocation of trapped or injured giant garter snakes will only be attempted by individuals with a current ESA Section 10(a)(l)(A) recovery permit. The monitoring biologist will immediately report any incidental take to USFWS by telephone and written letter addressed to the chief, Endangered Species Division, within 1 working day. The action area will also be re-inspected whenever a lapse in construction activity of 2 weeks or greater has occurred.
- Clearing of wetland vegetation will be confined to the smallest area necessary to excavate the canal banks and install field drains or culverts and replace native fill. Sediment excavation will be accomplished using equipment (i.e., a hydraulic excavator) from the top of the bank to minimize impacts to giant garter snake habitat.
- Heavy equipment moving to and from the project site will be restricted to established roadways.

(b) Additional measures that will be implemented to avoid and minimize take of giant garter snakes include the following.

- All vehicle traffic on access roads in the action area shall observe a speed limit of 10 mph to minimize the potential for vehicles to run over giant garter snakes

basking on access roads. The speed limit will be posted throughout the project site.

- Upland vegetation management will not occur more frequently than once every 2 years.
- Livestock used for vegetation management will be limited to sheep or goats. All wetlands and canals will be fenced with temporary electric fencing during any livestock grazing to prevent unintended trampling of canal banks, disturbance to wetlands, or grazing of wetland vegetation. Livestock grazing will be limited to May 1 through October 1. Livestock grazing using goats or sheep only will be the preferred method of upland vegetation management.
- Vegetation will be mowed to a height of not less than 6 inches to minimize the potential for giant garter snake injury. Mowing will be limited to May 1 to October 1.
- Mowing will be limited to hand held equipment such as weed eaters or similar equipment. Mowing using tractors or similar large equipment will not be permitted.
- Excavated sediment will be removed from the project site and re-used on adjacent areas, outside the project boundary to avoid impacts to giant garter snake habitat.

14. Mitigation Measure BIO-2:

(a) The applicant shall comply with all Conditions of Approval, avoidance measures, and terms and conditions set forth in the required federal and State permits issued for the project including the U.S. Fish and Wildlife Service and California Department of Fish and Wildlife.

(b) The applicant shall set construction limits on the plans, and on the site, that do not encroach on preserved wetlands or other water features. Preserved aquatic resources and riparian habitat shall be marked on the construction drawings. If needed, a visual or physical barrier will be installed along the perimeter of these features in order to avoid disturbance.

(c) Prior, during, and after grading and construction activities for the project, qualified biologist(s) or restoration ecologist(s) shall monitor construction activities in areas where wetlands and Special Status wildlife and plant species could be affected. The biologist(s) shall assist the construction crew, as needed, to comply with all project implementation restrictions and guidelines. The biologist(s) shall attend pre-construction meetings and conduct environmental trainings regarding the location of wetlands or other water features, as well as other sensitive resources. In addition, the biologist(s) shall be responsible for ensuring that the contractor maintains the staked and flagged perimeters of the construction area and staging areas adjacent to sensitive biological resources. The biologist(s) shall be on site during all construction activity with the authority to temporarily stop all construction, if violations of any of the measures or conditions are observed. If construction is stopped, representatives of the appropriate agencies, including Yolo County Planning and Public Works, shall be immediately notified.

(d) The applicant shall provide periodic progress reports to the Planning and Public Works Department during construction to document compliance with these mitigation measures and conditions required by other agencies. The applicant shall also provide documentation of the constructed project to the Planning and Public Works Department within thirty days of project completion. Documentation included in the progress reports and the completion notice may

include, but shall not be limited to, on-site reports from supervisors, biologists, and other applicant representatives, surveyed elevations, photographs, or other materials sufficient to provide a record of condition compliance and constructed as-built conditions.

15. Mitigation Measure BIO-3:

Prior to any site grading or construction activity in both the breeding and non-breeding season, the applicant shall conduct burrowing owl surveys in conformance with CDFG burrowing owl recommendations (CDFG, 2012). If burrowing owls are detected during preconstruction surveys, the applicant shall implement the following mitigation measures, consistent with CDFG recommendations:

(a) Avoid occupied burrows during the burrowing owl breeding season, February 1 through August 31.
(b) Prior to this breeding season, September 1 through January 31, occupied burrows should be avoided. If avoidance is not possible, owls may be evicted, and the applicant must provide compensation for loss of burrows per CDFG standards.

16. Mitigation Measure BIO-4:

Harvesting of any native plant materials such as tules (Scirpus acutus) from other portions of the applicant's property for transplanting on the project site shall be accomplished by hand using shovels. The harvesting shall be accompanied by a biological monitor to ensure that no jurisdictional wetlands or sensitive species are affected.

17. Mitigation Measure CUL-1:

(a) Prior to issuance of any grading permit(s) by Yolo County for Phase 2, the applicant shall submit a cultural resources survey or other evidence that indicates the probable lack of resources for the Phase 2 area, including plans to mitigate any potential impacts to uncovered resources or remains if they should be encountered during grading.

(b) Prior to the issuance of any grading permit for Phase 1 that includes any portion of the Phase 2 area (such as taking fill for Phase 1), a similar report shall be completed for that portion of Phase 2.

18. Mitigation Measure CUL-3:

(a) Implement Mitigation Measure CUL-1.

(b) Section 7050.5 of the California Health and Safety Code states that, when human remains are discovered, no further site disturbance shall occur until the County coroner has determined that the remains are not subject to the provisions of Section 27491 of the Government Code or any other related provisions of law concerning investigation of the circumstances, manner and cause of any death, and the recommendations concerning the treatment and disposition of the human remains have been made to the person responsible for the excavation, in the manner provided in Section 5097.98 of the Public Resources Code. If the coroner determines that the remains are not subject to

his or her authority and the remains are recognized to be those of a Native American, the coroner shall contact the Native American Heritage Commission within 24 hours.

19. Public Benefits

The applicant has agreed to provide the following public benefits as conditions of project approval:

- The applicant will pay a contribution to the County of 1% of the gross proceeds each sale of the first 68.5 mitigation credits, and 2% of the gross proceeds on the sale of each credit for the remaining 68.5 credits. This is expected to generate approximately $100,000 over the life of the project, which would be deposited into an account exclusively used to benefit local agriculture.

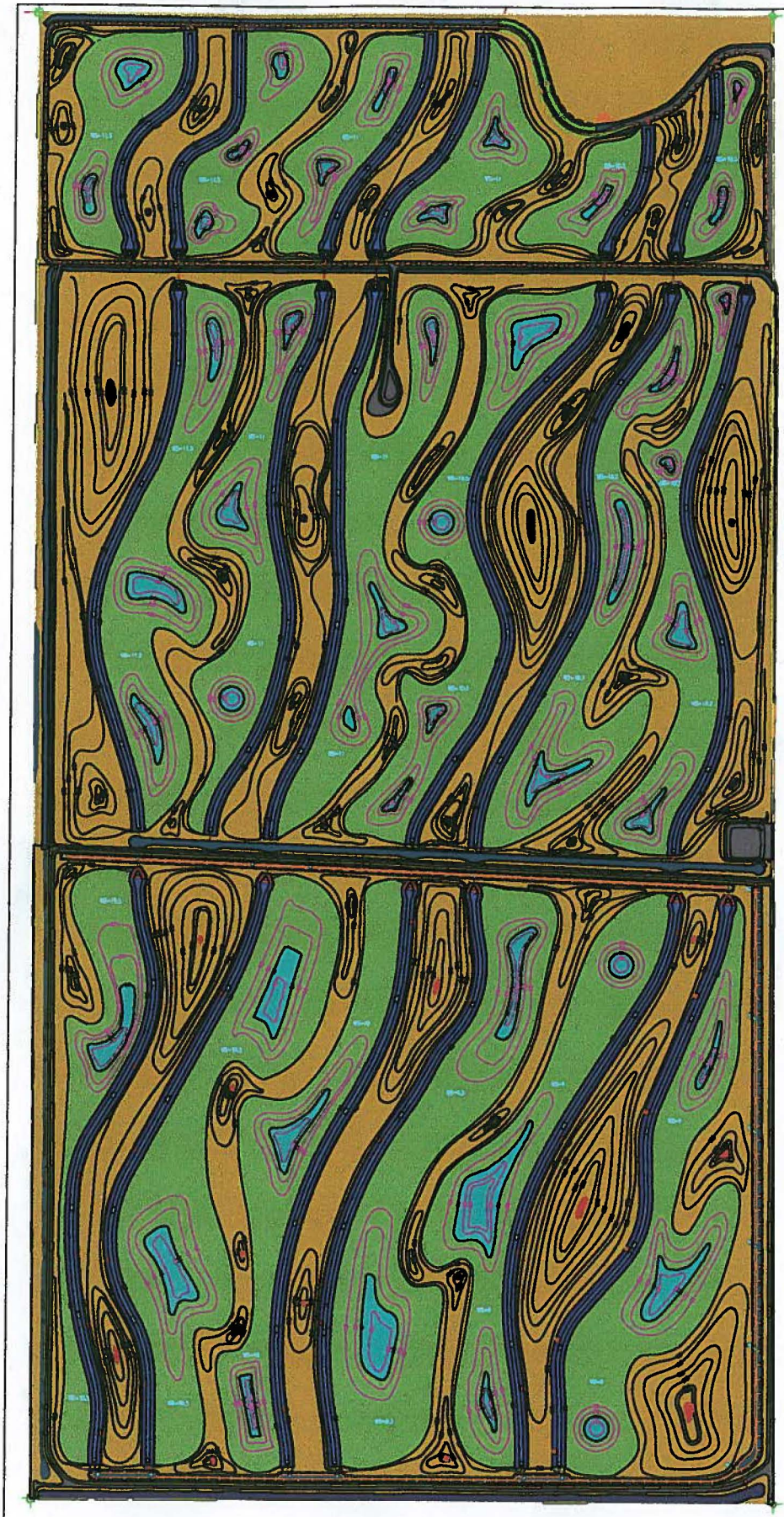
- The applicant would provide three mitigation credits for use by the County on future road improvements, bridge construction, or other public works/facility projects. This could save the County an estimated $150,000 in lieu of paying for mitigation elsewhere.

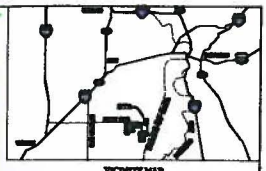
An agreement that provides specific terms and conditions to implement these commitments shall be approved by the Board of Supervisors prior to the issuance of grading permits or the commencement of grading for the project.

20. Yolo Natural Heritage Program.

The conservation easement recorded in connection with the Project shall include a statement that reads: "The Conservation Easement is intended to be consistent with the Conservation Goals and Objectives of the Yolo Natural Heritage Plan (NHP), an HCP/NCCP, and the Easement site is intended to partially fulfill the NHP Conservation Reserve goal."

The easement should also stipulate that this sentence will appear in the Management Plan to be prepared following recording of the easement.





VICINITY MAP

LEGEND

Site Color Exhibit

Capital Conservation Bank

America's Habitat
Scale: 1" = 100'

County of Yolo, California

Frayji Design Group, Inc.
February 14, 2011

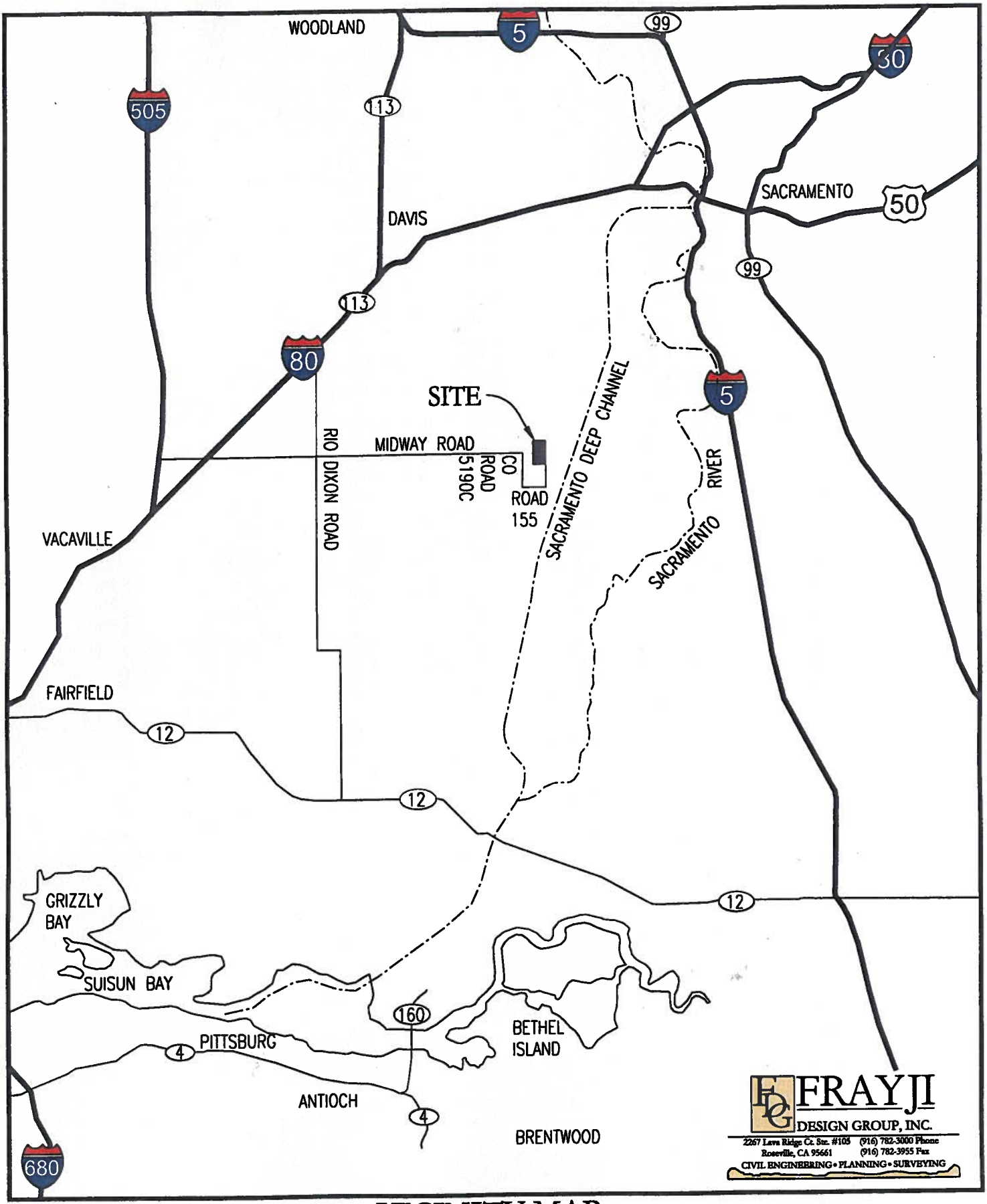
CHBC

Eric C. Hanna

America's Habitat

AECOM

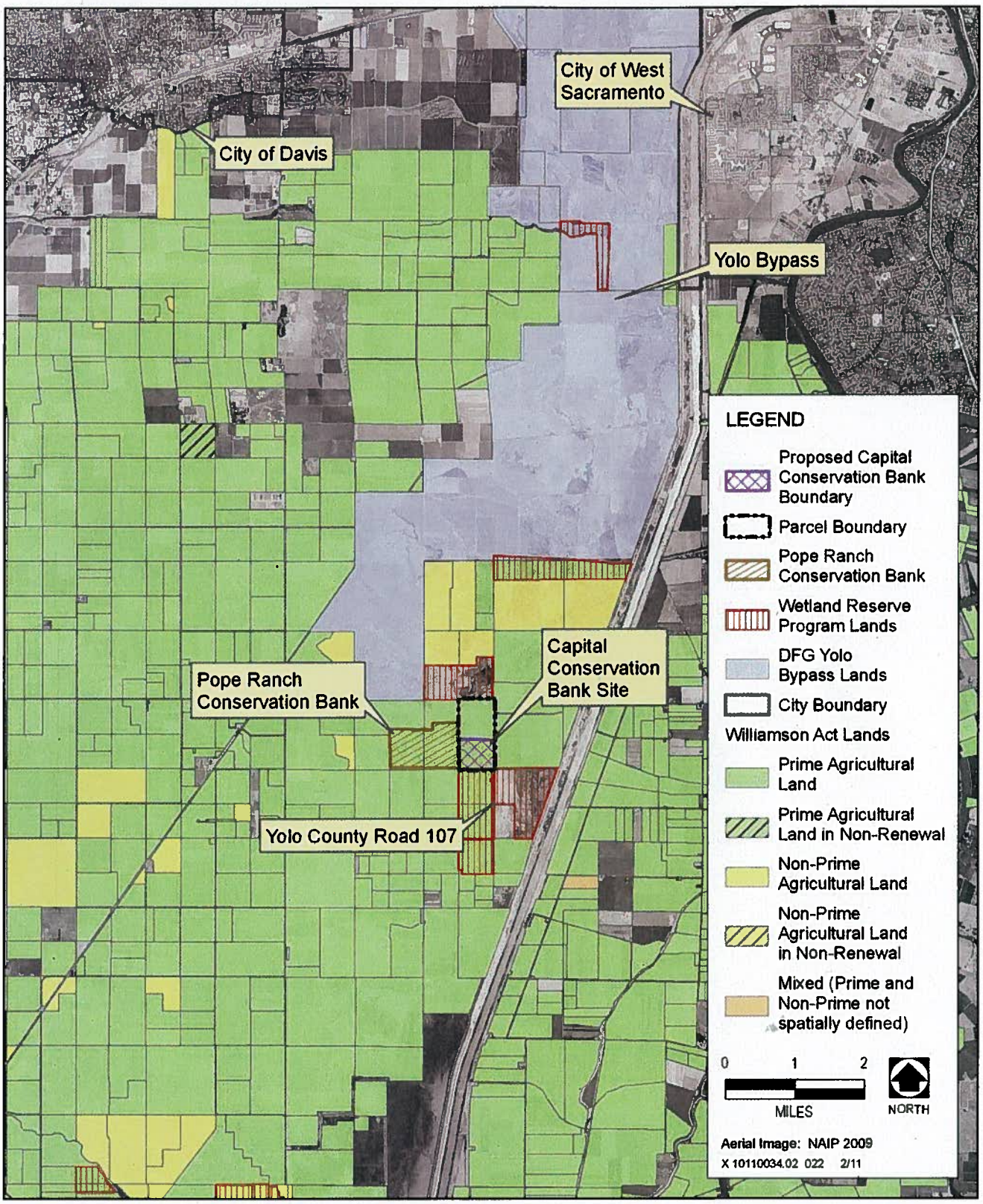
FRAYJI DESIGN GROUP, INC.



VICINITY MAP

NTS

Capital Conservation Bank



Source: Yolo County 2009, Wiemeyer Ecological Sciences adapted by AECOM 2010, Department of Conservation 2006, 2008. And 2009

Regional Land Use Context **Exhibit 3**