



COUNTY OF PLACER
Community Development/ Resource Agency

Michael J. Johnson, AICP
Agency Director

PLANNING

MEMORANDUM

TO: Honorable Board of Supervisors

FROM: Michael J. Johnson, AICP
CDRA Director

DATE: September 8, 2009

SUBJECT: PLACER COUNTY CONSERVATION PLAN (PCCP) – Memorandum of Understanding with the City of Lincoln

ACTION REQUESTED:

The Placer County Planning Department and the PCCP Ad-Hoc Committee are requesting that your Board execute a memorandum of understanding (MOU) with the City of Lincoln that addresses our joint interest in the preparation and implementation of the Placer County Conservation Plan (PCCP). County staff and the PCCP Ad-Hoc Committee are also providing the Board with a status report on the preparation of the PCCP, including the preparation of a new draft Reserve Map.

BACKGROUND:

Since February 2007, Supervisors Uhler and Weygandt have met with two Council Members of the City of Lincoln to discuss our joint interest in the preparation of the PCCP. In particular, the Ad-Hoc Committee has focused on the need to develop a Reserve Map that depicts areas that have the potential to accommodate growth and areas where a conservation reserve area can be established. Recently, the Committee members have agreed on a map that can serve as the foundation of a conservation strategy and is further discussed below.

In addition to the Committee's discussion of a draft Reserve Map, the Committee has also discussed the need for a MOU between the County and the City that describes the partnership to complete the preparation of the PCCP and its implementation.

With the execution of the subject MOU and the completion of the conservation strategy that is based, in part, on the new Reserve Map, the County will be proceeding with the submittal of an Agency-Review Draft PCCP. Anticipating comments back before the end of the calendar year, the County will prepare a revised draft PCCP, EIR/EIS and Finance Plan for public review before the end of the fiscal year.

COUNTY OF PLACER/CITY OF LINCOLN MOU:

The Ad-Hoc Committee is recommending that Placer County and the City of Lincoln enter into an MOU that defines the partnership between the two entities (Exhibit 1). The proposed MOU identifies staffing resources, a cost sharing ratio, reimbursement for costs associated with plan preparation and implementation and outlines how disagreements will be remedied. As part of the MOU, working principles have been developed that provide guidance on covered activities, conservation strategy elements, implementation, data development and public participation. This MOU represents the first

formal agreement between Placer County and the City of Lincoln and affirms the commitment of both agencies to complete the plan as we proceed forward.

On August 25, 2009 the City Council of Lincoln considered the MOU and authorized the Mayor to execute it on behalf of the City Council. An original copy of that document will be provided to the Chairman for signature in the event the Board authorizes the Chair to sign the document.

A new agreement, the Implementation Agreement, will need to be prepared and executed before the plan can be completed. The Implementation Agreement essentially represents a contract between the County and City and the agencies that would authorize the incidental take permits for endangered species.

PCCP RESERVE MAP UPDATE

After more than two years of discussion, the Ad-Hoc Committee Members from Placer County and the City of Lincoln have agreed upon a PCCP Reserve Map that addresses each jurisdiction's interest while at the same time serves as a foundation for the draft conservation strategy. While there have been numerous maps prepared the following three maps represent the range of issues considered by the Committee.

January 2007 Map

The January 2007 served as the baseline map upon which the Ad-Hoc Committee would analyze a range of alternatives. That map was prepared by Placer County and was incorporated in the Board of Supervisor's direction to form the Ad-Hoc Committee. Five colors were represented on that map. Variations on the color scheme have been used for the various alternatives that have subsequently been prepared:

- **Gray** - Areas in gray represent jurisdictions within the County that are not participating in the proposed conservation plan.
 - **White** - The areas shown in white reflect locations where future growth and urban infill could occur over the permit's 50-year time frame.
 - **Green** - Areas shown in green represent parcels that have been set aside in perpetuity for open space/natural resource conservation.
 - **Purple** - The purple areas on the maps identify where future land conservation activities could occur should the PCCP be implemented.
 - **Orange** - The orange areas identify parcels that have been described by property owners as having the potential to be a part of the reserve area.
 - **Urban Edge** - The "urban edge" is that area where developed land interfaces with protected land. The desire of the State and Federal agencies is to minimize the amount of urban edge, as the potential for long-term impacts increases as the amount of interface area increases.
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September 2008 Reserve Map

In September of 2008, the Board of Supervisors received a report from Supervisors Weygandt and Uhler that included a new draft Reserve Map (Figure 2). What is notable about this map alternative was the elimination of the Orange or "Potential Reserve Area" and the addition of the Blue "Development Transition Area" or DTA. The Potential Reserve Area was deleted because it did not appreciably contribute to the identification of the reserve area with any degree of certainty. The properties depicted in this color had the potential to be a part of a reserve system based upon information that had been received from a landowner. However, circumstances could change over time and a property owner's current interest in conservation could change. More importantly, the 22,000 acre DTA was used to identify an area within which the County and City of Lincoln would identify approximately 2,100 acres of vernal pool grassland when projects came forward for discretionary entitlements (about 10% of the DTA boundary). The DTA did not specifically identify which vernal pool grasslands would be protected, only that a minimum of 2,100 acres would need to be protected. Instead, the draft standards were intended to guide decisions on a future reserve acquisition by evaluating a number of features including: size, location, edge effect, connectivity and viability over time. Because the deferral of this decision to a future date results in less regulatory certainty for the state/federal wildlife agencies it had the potential to result in a lower level of regulatory coverage. Also, it was not possible to prepare a reserve map system that showed where connections, linkages, corridors and restoration areas could be established because of the location and size of the DTA. It represents a large area of sensitive resources (i.e., vernal pool grassland, and riparian corridors) that is devoid of geographically-explicit data other than the written standards that were intended to guide future decisions. The new map provides a simple and yet geographically-explicit location on where conservation may occur and where development could be accommodated over the 50-year term of the permit.

Lastly, as part of the Board's direction, the portion of District 5 that was within the PCCP boundary was removed from the reserve map and regulatory coverage area. This resulted in a boundary shift for the PCCP boundary wherein no take authorization for impacts would occur in this area and no mitigation/conservation lands would be acquired.

September 2009 Reserve Map

The latest map (Figure 3) is a more simple depiction of where conservation is expected to occur, where development is to be the dominant form of the landscape, and the location of the boundaries of the non-participating cities. The previous incorporation of Potential Reserve Areas (Orange) and the Development Transition Area (DTA) have been removed from the map.

The most important change was the removal of the Development Transition Area. Ultimately, it was the decision of the Ad-Hoc Committee to remove the DTA in order to provide the highest degree of certainty on where conservation and development activities could occur. The DTA area left the final decision on where development vs. conservation would occur to a future date when a specific land development project came forward. Written standards were prepared to insure that the appropriate lands went into conservation given a number of criteria that would be a part of the conservation plan.

In order to accomplish this change, a portion of the DTA was identified as an area that could contribute to the Reserve Area (the change focused on vernal pool grasslands). The majority of the DTA was shifted to the Development Opportunity Area (depicted as white). With a more discernible boundary, certainty is improved. This benefits the conservation strategy in that it removes an area of the plan that included standards but no "hard line" details on development vs. conservation opportunities. This was considered particularly important given the number of sensitive resources contained within the DTA including a significant percentage of the vernal pool grasslands that remain in Placer County. This commitment to a higher level of certainty by the County and City of Lincoln is intended to result in a higher degree of certainty in our regulatory agreements.

Another key feature of the map is the depiction of a +/- 1,500 acre reserve area in the Coon Creek floodplain within Sutter County. This is an area where the County boundaries with Sutter represent a 90-degree angle and consequently, conservation planning along this boundary is complicated by this jurisdictional alignment. The Coon Creek floodplain passes through Placer County, enters Sutter County and emerges again in Placer County to the southwest. By incorporating this area of Sutter County within our Draft Reserve Map, we can insure that this important watershed is protected throughout its length in the reserve area and that east-west foothill and valley floor connectivity is insured.

Placer County staff met with Sutter County staff to discuss this and other PCCP issues in August 2009. Sutter and Yuba Counties are jointly preparing a plan similar to the PCCP. The Sutter/Yuba effort is in its preliminary stages and they are not drawing reserve boundaries this time. Consequently, Sutter County is not prepared to make any commitment to conservation in this area however, they did confirm that Placer County's proposal is not in conflict with the Sutter County General Plan. Additional coordination with Sutter County will be required before this area can be considered a part of the PCCP.

In summary this map yields the following characteristics:

Map Area	Total Area	Vernal Pools 0-1%	Vernal Pools 1-5%	Vernal Pools >5%	Total Vernal Pools
Existing Preserves (Green)	12,407	2,054	1,646	3,653	7,353
Reserve Acquisition Areas (Purple)	71,441	10,185	4,946	3,207	18,338
Growth Areas (White)	111,101	10,953	4,954	2,731	18,638
Totals:	194,949	23,192	11,546	9,591	44,329

As we move forward we will transition away from a single map depicting the boundary of conservation and development. This map will be replaced by series of maps which depict: 1) PCCP boundaries, 2) Restoration areas, 3) Habitat conservation priorities, 4) Connectors and linkages and 5) Wetland and riparian conservation.

FISCAL IMPACT:

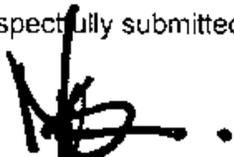
There are no new fiscal impacts associated with the preparation of the PCCP documents. The County has contracts and funding sufficient to continue the work program through the fiscal year. The MOU with Lincoln provides for the reimbursement of costs being incurred by the County at this time. Such reimbursements would likely be deposited in the General Fund. The fair share burden for the City is equal to 30% of the costs incurred for PCCP planning since the formation of the Ad-Hoc Committee on January 23, 2007. Provisions are also included in the MOU to account for costs incurred prior to the formation of the Ad-Hoc Committee and for future planning costs. Implementation costs will be separately negotiated.

RECOMMENDATIONS:

The Planning Department recommends that the Board of Supervisors take the following actions:

1. Authorize the Chairman of the Board to execute the Memorandum of Understanding on behalf of the Board of Supervisors.

Respectfully submitted,



MICHAEL J. JOHNSON, AICP
Director of Planning

Attached to this report for the Board's information/consideration are:

ATTACHMENTS:

- Exhibit 1: County of Placer/City of Lincoln MOU
Exhibit A: PCCP Phase 1 Base Map
Exhibit B: PCCP Working Principles

- cc: Jim Estep, City Manager-City of Lincoln
Biological Working Group (BWG) Stakeholder Working Group
Inter-Agency Working Group Stakeholder Working Group
Chris Beale, Resources Law Group

Exhibit 1

MEMORANDUM OF UNDERSTANDING

Between County of Placer and the City of Lincoln

Placer County Natural Communities Conservation Plan and Habitat Conservation Plan September ____, 2009

I. PREAMBLE

The Placer County Board of Supervisors ("COUNTY") shares a common interest with the City of Lincoln ("CITY") (collectively known as the "Parties") in sustaining the integrity of regional biological and natural resource systems and the human and economic values they support. Western Placer County is part of an urbanizing region, and many biological and natural resource systems that were once common and extensive throughout Central and Northern California are now rare. The challenge of mitigating the effects of urbanization is now falling, in part, on the COUNTY, which has seen in recent years a dramatic increase in development pressures, yet still maintains a substantial presence of both valuable habitat and endangered, threatened and rare species.

The Placer County Conservation Plan ("PCCP") is designed to meet the challenge of urbanization by providing for the conservation of significant habitat and the preservation of endangered, threatened and rare species in a coordinated and efficient manner. The COUNTY is preparing the PCCP in western Placer County in an area that encompasses 195,595 acres (the PCCP Phase 1 Plan Area). The PCCP Phase 1 Plan Area includes the unincorporated COUNTY land west of the easternmost portion of the Coon Creek watershed, and thence south and east to the North Fork of the American River to the Sutter, Yuba and Sacramento County line (Exhibit A). The Plan Area also includes the City limits of the CITY. The boundary excludes the City Limits of Roseville, Rocklin, Auburn and the Town of Loomis. The PCCP will serve as a Habitat Conservation Plan pursuant to Section 10(a)(1)(b) of the Federal Endangered Species Act, as well as a Natural Community Conservation Plan under the State Natural Community Conservation Planning Act.

Instead of piecemeal mitigation efforts, the PCCP will provide large contiguous blocks of habitat to more effectively ensure the survival of targeted endangered, threatened and rare species. Area developers will benefit from the assurance provided by the U.S. Fish and Wildlife Service, National Marine Fisheries Service and California Department of Fish and Game, as well as a streamlined process for complying with applicable federal and state mandates. The citizens of Placer County and any participating agencies will further benefit from this planned growth because it will create new economic opportunities while preserving important open space and recreation opportunities, as well as maintaining the area's quality of life.

The COUNTY and the CITY share an interest in completing the PCCP in order to obtain regulatory coverage for a number of state and federally-listed species in order to improve the mitigation for these species, to provide regulatory certainty and efficiency and to provide local oversight over mitigation and conservation activities associated with these species.

II. PURPOSE OF THE AGREEMENT

Efforts to coordinate conservation programs among local, state, and federal agencies in California are well-established. In Placer County such efforts were initiated in 1999 with the establishment of the Placer Legacy Framework Agreement and again in 2001 with the NCCP Planning Agreement. Section 4.2 of the Planning Agreement anticipates and provides for participation by local and state agencies in the development and implementation of the PCCP. On May 2, 2007 COUNTY and CITY members of an appointed Ad-Hoc Committee agreed on Placer County Conservation Plan Working Principles (Exhibit B) to further guide the PCCP efforts between COUNTY and CITY elected officials and staff.

This Memorandum of Understanding ("MOU") builds on these examples by establishing a partnership between the Parties to cooperate in the implementation of the PCCP. This MOU encourages the following in order to facilitate the timely completion of the PCCP.

1. Exchange of information regarding lands and facilities owned and managed by the Parties.
2. Identification of key personnel who will work on the PCCP.
3. Identification of funding needs.
4. Provision of funding and in-kind staff or consultant services for the pro-rata share of the cost of the development of the PCCP.

III. AUTHORITY

This MOU does not modify or supersede existing local, state or federal statutory obligations of the signatories.

IV. POLICIES AND PRINCIPLES

This MOU recognizes the following set of policies and principles:

- A. **Information Exchange** - Each signatory to this MOU agrees to coordinate with other Parties to this MOU regarding land use plans, infrastructure planning and other activities to be covered by the PCCP within the PCCP Phase 1 Plan Area.
 1. The Parties agree to provide any available digital files and hard copy maps of such land use plans, infrastructure planning and other activities or facilities to the same upon request.
 2. The Parties further agree to provide any further information they possess regarding the types and amounts of vegetative communities on the lands they manage within the PCCP Phase 1 Plan Area.

- B. Staff Participation** - The Parties agree to participate as a member of the Interagency Working Group ("IWG").
1. CITY agrees to participate as a member of the Interagency Working Group ("IWG") by providing one or more staff persons to attend regular meetings and provide advice and information as necessary to complete the PCCP.
 2. COUNTY agrees to provide leadership on the IWG and be responsible for agendas, scheduling, agency coordination and dissemination of data, posting of data on the web, etc.
 3. COUNTY agrees to coordinate directly with CITY personnel and provide CITY with information on the PCCP in a timely manner.
 4. COUNTY agrees to work with the CITY to ensure the development of a coordinated approach for managing conservation lands in a cooperative manner consistent with the goals and objectives of the PCCP.
- C. Evaluation of Costs** - The development of a PCCP is an expensive process and involves considerable costs associated with staff time, contractors and legal counsel. Each Party in the development of a PCCP should bear its fair share burden of the cost of the development and implementation of the program. The determination of the fair share burden is based upon the level of analysis required to obtain regulatory coverage and the costs associated with implementation of those portions of the regulatory program associated with the Party's particular need. In this regard each Party agrees to the following:
1. COUNTY will provide information to CITY on the total cost of the development of the work program up to the date that this MOU is signed.
 2. If requested, COUNTY will provide copies of contracts for all work that has been authorized by COUNTY to prepare the PCCP.
 3. CITY will provide a project description describing the extent of activities for which it seeks regulatory coverage including coverage for one or more of the following: state listed species, federally-listed species, Clean Water Act compliance for Section 404 and compliance with Section 1600 *et seq.* of the Fish and Game Code related to streambed alteration agreements.
 4. CITY will provide a list to COUNTY that specifically identifies the covered activities CITY wishes to be addressed by the PCCP.
 5. This information will serve as the basis for determining the pro-rata share cost for CITY's participation in the development and implementation of the PCCP.
- D. Determination of Costs** – Each Party agrees that it has a fair share burden for past costs and future costs to complete the plan and to implement the plan. Consequently, each Party shall provide funding and in-kind staff or consultant services for the pro-rata share of the cost of the development of the PCCP. The following terms are agreed to by each party in order to share these costs:
1. The fair share burden for CITY shall equal 30% of the costs incurred for PCCP planning since the formation of the Ad Hoc Committee on January 23, 2007.

2. The determination of future planning costs will be based upon the same ratio as costs incurred since January 23, 2007 as referenced in D1 above.
3. The fair share burden for CITY costs incurred prior to January 23, 2007 will be determined at a later date at which time a determination will be made on the fair share amount and the form of reimbursement.
4. The City may elect to enter into an agreement with the County to pay its fair share through a deferred payment option to be paid within a two year period.

E. Disagreements - If any land or infrastructure management prescriptions of the Parties are found to be inconsistent with PCCP objectives and requirements, the Parties will work collaboratively to resolve the inconsistencies.

1. The Parties will make every effort to expeditiously resolve any disagreements. If resolution cannot be accomplished promptly during regularly scheduled meetings and conference calls, a further attempt to reach resolution will be promptly attempted in an interim meeting or conference call dedicated to the purpose of resolving the disagreement.
2. If the Parties cannot reach agreement on any issue as outlined in Exhibit B, and including but not limited to management of conservation lands within the PCCP Phase 1 Plan Area, after completing an interim meeting or conference, all Parties agree to elevate the decision to successively higher levels within each organization until consensus is reached.
3. Should the Parties fail to reach consensus after exercising all available options pursuant to Section E, either Party may dissolve this MOU upon payment of its fair share of costs incurred as of that date in accordance with Section D.

V. MODIFICATIONS

The MOU is to remain in effect until modification by the Parties in writing; it is negotiable at the option of any of the Parties.

IN WITNESS WHEREOF, the Parties hereto have executed this Memorandum of Understanding on the date first herein written above.

PLACER COUNTY BOARD OF SUPERVISORS

By: _____
Chairman of the Board of Supervisors

CITY OF LINCOLN

By: _____
Mayor of the City of Lincoln

Exhibit A

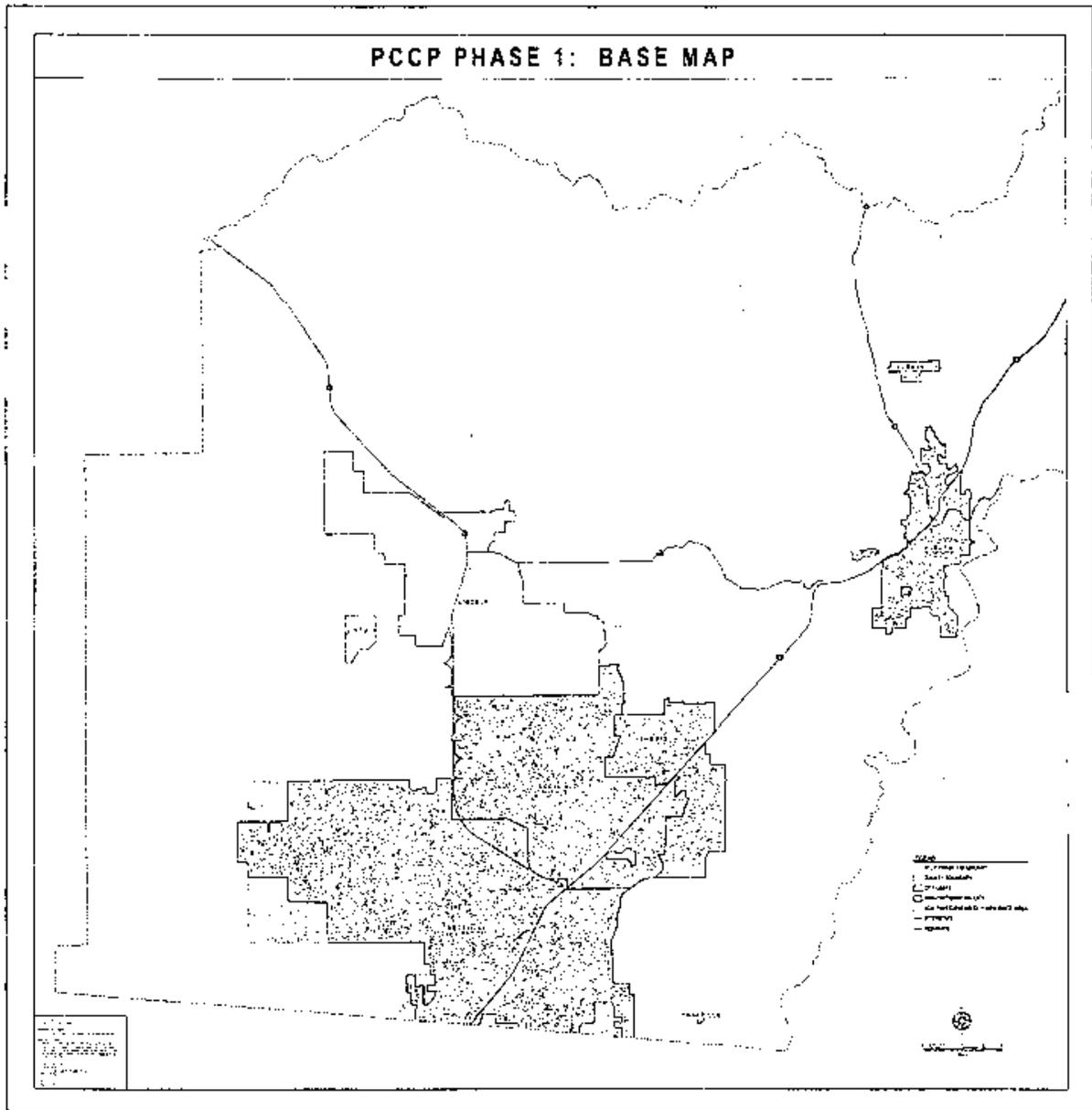


Exhibit B

Placer County Conservation Plan

Working Principles

Prepared by the PCCP Ad Hoc Committee

May 2, 2007

(Updated August 10, 2009)

The following working principles represent areas of common interest between the U.S. Army Corps of Engineers, U.S. Environmental Protection Agency, U.S. Fish and Wildlife Service, National Marine Fisheries Service, and the California Department of Fish and Game (collectively referred to as the Resource Agencies) and the County of Placer and the City of Lincoln (jointly referred to as the Applicants).

These principles are not an agreement in the sense that all parties have irreversibly stated their mutual concurrence regarding these principles. These principles are intended to assist the Resource Agencies and the Applicants with the development of biological resources goals and objectives, a conservation strategy, a conservation reserve map, and elements of the Implementation Agreement. None of these working principles are pre-decisional. Final agreements are not reached until such time that there is an approval of the Placer County Conservation Plan (PCCP) Implementation Agreement and all requested permits are issued.

Working Principles:

1. Regulatory Permitting

- a. 50-year regulatory coverage for Federal Endangered Species Act
- b. 50-year regulatory coverage for the State Endangered Species Act
- c. Programmatic Federal Clean Water Act (CWA) coverage for Sections 404 and 401
- d. State Master Streambed Alteration Agreement
- e. The permits associated with the PCCP are intended to provide certainty, streamlining of review and permitting procedures and improved conservation.

2. Covered Activities

- a. Unincorporated growth to 2055 including:
 - Transportation Facilities
 - Residential, Commercial, Public Facility, and Industrial Construction
 - Infill land development
 - Pipeline Installation and Maintenance
 - Land Management Activities

- Recreational Activities and Facilities
 - Stormwater Management Activities
 - Habitat/Land Restoration Activities
 - Waste Management Activities
 - Flood Control Activities
 - Placer Legacy Implementation Activities
- b. City of Lincoln growth to 2055 including:
- Transportation Facilities
 - Residential, Commercial, Public Facility, and Industrial Construction
 - Infill land development
 - Pipeline Installation and Maintenance
 - Land Management Activities
 - Recreational Activities and Facilities
 - Stormwater Management Activities
 - Habitat/Land Restoration Activities
 - Waste Management Activities
 - Flood Control Activities
- c. Indirect and cumulative impacts associated with the Sacramento River diversion for the Placer County Water Agency (PCWA)
- d. Direct impacts associated the construction of new water conveyance facilities and the operations and maintenance of existing and new facilities
- e. Construction and maintenance of the Placer Parkway

3. Conservation Strategy

- a. Mitigation to occur in advance of take
- b. The PCCP will sustain all natural habitat community types present in the Western Placer County landscape
- c. The PCCP will partially restore or enhanced certain natural communities and ecosystem processes and functions
- d. The PCCP will ensure population stability and sustainability of covered species and contribute to the species' recovery
- e. The PCCP will insure maintain landscape connectivity
- f. The PCCP will address cumulative impacts of intensive land use and urbanization in Placer County.
- g. In order to meet conservation objectives, including no net loss of wetlands and contribution to recovery of species, the PCCP must show how Western Placer County will retain substantially all of the biological resource values that it has now.
- h. The PCCP conservation reserve map is to be considered the least damaging practicable alternative (LEDPA) for CWA 404 permitting for the unincorporated area and the City of Lincoln in the PCCP Phase 1 boundary.

4. **Implementation**

- a. Financing to be determined before initiation of implementation
- b. Adaptive management is to be part of ongoing of the Applicants
- c. There is a critical need to establish an efficient and effective Monitoring Program including both implementation (i.e., tracking changes in land use and assuring that fees or other conservation measures are fully executed) and biological monitoring.

5. **Baseline Data**

- a. Vegetative mapping and land cover mapping is of a suitable level of resolution for decision-making
- b. Background data collection for the PCCP is adequate for decision-making
- c. The Science Advisors Report provides the scientific foundation for the development of the conservation strategy.

The following principles are derived from the June 2000 Placer Legacy Open Space and Agricultural Conservation Program Implementation Report for the preparation of a HCP/NCCP.

1. **The plan should be based on the best available science.**

Best available science means that the Program will:

- be based on principles of conservation biology, community ecology, landscape ecology, individual species' ecology and other scientific knowledge and thought;
- be based on thorough surveys of all species of federal, state and local concern on lands dedicated to conservation or mitigation and lands subject to take activity;
- be reviewed by well-qualified, independent scientists;
- identify and designate biologically sensitive habitat areas for preservation;
- determine the extent of impacts to species from take activity;
- require monitoring of target species on developed, mitigation and other preserved lands for the lifetime of the plan; and
- seek to contribute to the recovery, not just the maintenance, of species covered by the plan.

2. **The plan should be created in an open and transparent manner with input from all concerned citizens.**

An open and transparent manner means that the Program will:

- provide for thorough public review and comment;
- include a citizen working group that will review the plan at every stage

- of development; and
- require that negotiations with applicable agencies be conducted in an open manner.

3. **The plan should contain elements that assure that the goals of the plan are actually met.**

Required elements that will help meet the goals of the plan include:

- monitoring and review of plan objectives and milestones at defined intervals to assure that they are being met, including the identification of a process to suspend, modify, or revoke permits if there is not sufficient compliance with the agreed upon objectives;
- adequate funding sources identified up front for habitat preservation and species recovery goals, based on realistic estimates of future land value for the life of the permits;
- adequate funding for monitoring to determine that plan goals are actually being met;
- adaptive management and periodic review, with sufficient funding to support changes in take activity and mitigation required to meet the plan's goals;
- acquisition of required mitigation lands before development proceeds; and performance standards for contributing to species recovery.

