

# AGENDA

**Stakeholder Committee Meeting  
Butte Regional HCP/NCCP  
Wednesday, May 2, 2007  
11:00am-3:00pm  
BCAG Conference Room**

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**Meeting Purpose:** Review of ongoing HCP/NCCP efforts.

**Expected Outcomes:** Recommendations on content of committee roles and responsibilities in Planning Agreement.

**Agenda:**

1. Introductions
2. Review of Revised Draft Roles and Responsibilities of Committees, Boards and Councils (Attachment 1)
3. Draft Planning Agreement (Attachment 2)
4. Science Panel Status
5. Draft Acronym List (Attachment 3)
6. Status of Ecological Baseline Report, Peregrine Falcon Account, Potential Covered Species List, and List of Species of Local Concern
7. Review of April 4th Meeting Notes (Attachment 4)
8. Status of Working Session to Review Maps of Butte Regional HCP/NCCP Planning Area
9. Action Items and Next Meeting



## **STAKEHOLDER COMMITTEE**

## **Attachment #1**

Date: May 2, 2007

### **DRAFT REVISED ROLES & RESPONSIBILITIES OF COMMITTEES, BOARDS AND COUNCILS**

**PREPARED BY: Chris Devine, Planning Manager**

**DISCUSSION:** Included below is the revised draft version of the Roles and Responsibilities of Committees, Boards and Councils document. Changes suggested by Bill Haas at the last meeting have been integrated and several additional changes were made to reflect Bill's comments in the descriptions of the Steering and Stakeholder Committee meetings.

Please review the document and provide any comments (verbal or written) at the meeting.

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**Butte Regional HCP/NCCP  
Planning and Decision-making Process**

This document describes the general process through which the Butte Regional HCP/NCCP will be developed, and outlines the roles and responsibilities of the various committees and entities that will participate in plan development and approval.

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**HCP/NCCP Steering Committee.** An ad hoc committee, the Steering Committee is comprised of representatives of the agencies that will be receiving permits from the regulatory agencies upon completion of an approved HCP/NCCP. This initially includes representatives from the incorporated cities and county, but may eventually include representatives from other agencies seeking permits under the plan. Representatives from the state and federal regulatory agencies will regularly attend Steering Committee meetings as well.

The Steering Committee will act in an administrative capacity and will be responsible for the preparation of the Plan. All such meetings are open to the public and provide for public comment. Agendas and meeting notes will be posted on the [www.buttehcp.com](http://www.buttehcp.com) website.

Responsibilities of the Steering Committee include:

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- managing the Consultants and working with the Consultants to establish timelines, work products and outreach processes
- reviewing key HCP/NCCP elements (e.g., covered species, Plan Area, covered activities, conservation strategy, impact assessment, implementing entity);
- providing guidance as requested by Technical Subcommittees (see below);
- monitoring HCP/NCCP development budgets;
- securing grant funding for Plan preparation;
- providing oversight of HCP/NCCP development;
- communicating HCP/NCCP progress and issues to the County and City/Town Administrators Committee, Stakeholder Committee, and Planning Directors Group;
- providing for public participation and outreach;
- reviewing and formulating responses to DFG, USFWS, NOAA Fisheries, Science Advisory Panel and Stakeholder Committee recommendations for HCP/NCCP development; and
- Reviewing HCP/NCCP scopes of work, budgets, and scope modifications of the Consultants.

The Committee will also review and incorporate recommendations from the Stakeholder Committee for HCP/NCCP development and content that are based on the following:

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1. Applicable federal, state, and local law (Law);

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2. Guidelines and requirements established by federal HCP and state NCCP processes (Process);
3. Current best scientific knowledge in all applicable areas including landscape ecology, biology, agriculture, hydrology, seismology and other related science-based studies;
4. An understanding of all stakeholders' points of view such that the proposals of all parties are considered and analyzed for their merit within the context of the Process, knowing that it is the goal of the Process to balance thoughtful, well-designed planning and community growth with sound conservation practices;
5. When consensus is reached on issues not in violation of the spirit or the letter of Law or Process, the Steering Committee will not significantly alter the recommendations of the Stakeholder Committee;
6. Should instances arise in which the Stakeholder Committee is not able to reach consensus on recommendations, then the Steering Committee will seek guidance from appropriate federal and state agencies in order to maintain the planning schedule and provide a draft product for review by the County Board of Supervisors and city councils.

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**Stakeholder Committee.** The Stakeholder Committee is an ad hoc committee comprised of representatives of HCP/NCCP stakeholder interests that represents a diverse cross-section of the interests and views of the community. Stakeholder Committee meetings will also be attended by Steering Committee members and state and federal regulatory agency staff. City and county planning staff will likely attend meetings as needed. All such meetings are open to the public and provide for public comment. Agendas and meeting notes will be posted on the [www.buttehcp.com](http://www.buttehcp.com) website.

**Deleted:** . It is a goal of the Steering Committee to ensure efficient progress on the HCP/NCCP. It is anticipated that the Stakeholder Committee will reach consensus on key HCP/NCCP issues during development of the HCP/NCCP document. ¶

¶  
When consensus is reached, the Steering Committee will not significantly alter the recommendations of the Stakeholder Committee. Should instances arise in which the Stakeholder Committee is not able to reach consensus on recommendations, then the Steering Committee will work toward reaching a compromise in order to maintain the planning schedule and provide a draft product for review by the County Board of Supervisors and city councils.¶

This committee will develop recommendations for HCP/NCCP content following reviews of draft sections of the HCP/NCCP. It is anticipated that the Stakeholder Committee will make its recommendations based on the following:

- 1 Applicable federal, state, and local law (Law);
- 2 Guidelines and requirements established by federal HCP and state NCCP processes (Process);
- 3 Current best scientific knowledge in all applicable areas including landscape ecology, biology, agriculture, hydrology, seismology and other related science-based studies;
- 4 An understanding of all stakeholders' points of view such that the proposals of all parties are considered and analyzed for their merit within the context of the Process, knowing that it is the goal of the Process to balance thoughtful, well-designed planning and community growth with sound conservation practices;
- 5 When consensus is reached on issues not in violation of the spirit or the letter of Law or Process, the Steering Committee will not significantly alter the recommendations of the Stakeholder Committee;

**Deleted:** and will work towards developing consensus recommendations.

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6 Should instances arise in which the Stakeholder Committee is not able to reach consensus on recommendations, then the Steering Committee will seek guidance from appropriate federal and state agencies in order to maintain the planning schedule and provide a draft product for review by the County Board of Supervisors and city councils.

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Stakeholder groups anticipated to be represented on the committee include:

- Development Community,
- Farming and Agriculture,
- Special Districts,
- Educational Institutions,
- Environmental Community,
- Tribal Governments,
- State and Federal Agencies (non-wildlife), and
- Other relevant groups, as appropriate.

Deleted: <#>The Committee's consensus recommendations will periodically be forwarded by the Steering Committee through city and county administrative staff to the city councils and County Board for approval. In instances in which consensus is not reached by the Stakeholder Committee, the Steering Committee will work toward reaching a compromise to maintain the planning schedule and provide a draft product for review by the County Board of Supervisors and city councils. ¶

Committee membership will require active participation in a collaborative process that will require "give and take" among members to enable the HCP/NCCP process to move forward on schedule and within budget. Qualifications for stakeholder representatives should include:

- Having a recognized standing within their stakeholder group,
- Commitment to review and provide timely recommendations to draft HCP/NCCP elements,
- Commitment to fairly represent the interests of and report HCP/NCCP progress to their stakeholder group,
- Commitment to completing a HCP/NCCP through a collaborative process that is based on reaching consensus as a group.
- Being familiar with the range of relevant issues and interests that are important to all members of the stakeholder group and be committed to fairly represent those issues and interests as they relate to development of the HCP/NCCP, even where they may diverge from their own viewpoint.
- Commit to regularly communicating progress of HCP/NCCP development and HCP/NCCP-related issues to members of the stakeholder group and receive and accurately represent feedback from the group to the Committee.

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The Stakeholder Committee will be limited in size to ensure a balanced and efficient process of comment and discussion while allowing for a wide range of points of view. One to three individuals will represent each stakeholder group identified above, and each representative may designate an alternate to attend should they not be able to. Additional stakeholder representatives may be added during the development of the HCP/NCCP. To become a member of the committee, an individual must be able to commit to the qualifications listed above.

Only the Stakeholder Committee members or alternates will make recommendations as part of the committee and only Stakeholder Committee member comments will receive a direct response to comments during meetings on administrative draft documents (Steering Committee, Wildlife Agency and Science Panel comments receive a direct response during meetings as well). Non-committee member comments are welcomed and will be considered on administrative draft documents, but will not receive a direct response. Non-committee members who wish to receive a direct response to their comments should funnel their comments through their appropriate Stakeholder Committee member.

Individuals who wish to be kept informed of Stakeholder Committee meetings, but not participate directly on the committee, will be kept informed of committee meeting dates, agendas, meeting notes, handouts etc. in the same manner as committee members. Such individuals should request being added to the Stakeholder Committee “interested parties” contact list.

**County Board and City Councils.** The Butte County Board of Supervisors and the Biggs, Chico, Gridley and Oroville City Councils are responsible for review and approval of the final HCP/NCCP and will also be signatory to the Planning Agreement, Implementing Agreement and permits for the covered activities within their jurisdictions. All meetings, other than special closed sessions, are open to the public.

**BCAG Board.** The BCAG Board is responsible for:

- Review, but not approval, of the HCP/NCCP;
- Approving funding for HCP/NCCP planning through BCAG’s Overall Work Program (OWP) work elements;
- Requesting funding from HCP/NCCP participants; and
- Oversight of HCP/NCCP development based on periodic reviews of progress.
- All meetings are open to the public

**State and Federal Regulatory Agencies.** State and Federal Regulatory agencies include California Department of Fish & Game, the US Fish & Wildlife Service, the National Marine Fisheries Service and the US Army Corps of Engineers. These agencies are responsible for review and approval of the final HCP/NCCP, EIS/EIR, and Clean Water Act permit; will provide guidance throughout the process of developing the plan; and will participate in Stakeholder Committee meetings and Steering Committee meetings.

**Science Advisory Panel.** The Science Advisory Panel is an independent committee required by the NCCP Act. It is comprised of recognized experts in technical fields relevant to the HCP/NCCP that operates independently from the Steering Committee

and Consultant. A Science Advisory Panel Facilitator will be selected by the Steering Committee with approval from the California Department of Fish and Game, US Fish and Wildlife Service, and National Marine Fisheries Service.

The Science Facilitator will work with the Steering Committee, regulatory agencies and Stakeholder Committee to develop a long list of potential candidates for the Science Advisory Panel. Final selection of advisors (and perhaps alternates) shall be made solely by the Facilitator. It is very important that there is no actual or perceived influence by the committee members, consultants, elected officials, or stakeholder groups in the final selection of science advisors.

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The Science Facilitator coordinates the Science Advisors' review of and recommendations for the conservation strategy and is responsible for ensuring that the Science Advisory Panel prepares quality deliverables on schedule. The Science Advisory Panel is charged with the following tasks [California Fish and Game Code Section 2810(5)]:

- Recommend scientifically sound conservation strategies for species and natural communities proposed to be covered by the plan.
- Recommend a set of reserve design principles that addresses the needs of species, landscapes, ecosystems, and ecological processes in the planning area proposed to be addressed by the plan.
- Recommend management principles and conservation goals that can be used in developing a framework for the monitoring and adaptive management component of the plan.
- Identify data gaps and uncertainties so that risk factors can be evaluated.

Recommendations of the Science Advisory Panel will be in written reports. These recommendations are advisory and Science Advisory Panel recommendations will be reviewed with the Stakeholder Committee with the goal of reaching consensus on the extent to which recommendations of the Panel are incorporated into the HCP/NCCP.

**City/Town/County Administrators Committee**. The City/Town/County Administrators Committee is comprised of the Butte County Chief Administrative Officer and City/Town Managers and assistants from the Cities of Biggs, Chico, Gridley, and Oroville and Town of Paradise. The committee meets on an as needed basis to keep the jurisdictions informed of progress and key issues on the HCP/NCCP. HCP/NCCP progress will be reported as appropriate to the bodies they represent. This committee will be responsible for taking HCP/NCCP approval items to their respective bodies for approval.

**Technical Subcommittees, including Planning Directors Group**. Technical subcommittees may be comprised of members of the Steering Committee, BCAG

management staff, County and Town/City experts (e.g., community development directors, planning directors, or senior planners), and stakeholders. Technical subcommittees would be ad hoc whereby individuals with the necessary expertise to perform specified tasks will be assembled. The Steering Committee may establish one or more technical subcommittees, as needed, to focus on development of specific aspects of the HCP/NCCP.

**The City/Town/County Planning Directors Group** is an example of an already established technical subcommittee that is comprised of planning directors and staff from each incorporated jurisdiction. The committee meets on a monthly basis to keep the jurisdictions informed of progress made and key issues associated with the development of the HCP/NCCP, and to encourage collaboration on General Plan updates that are occurring and seek ways to integrate these two planning efforts.

Technical responsibilities of this group include:

- reviewing draft HCP/NCCP sections;
- providing technical guidance to the Consultant for development of the HCP/NCCP;
- identifying decisions required by Cities/Town Councils or County Board to further HCP/NCCP development;

**Consultants.** The role of the Consultants is to fulfill the terms of contracted scopes of work. The Consultants' responsibilities will be to:

- Work closely with the Steering Committee, Stakeholder Committee, Science Advisory Panel, DFG, USFWS, and NOAA Fisheries in development of the HCP/NCCP and associated regulatory compliance documents;
- Moderate Stakeholder Committee meetings;
- Provide recommendations for HCP/NCCP development to decision makers;
- Advise decision makers regarding HCP/NCCP requirements;
- Interact with the permitting agencies on behalf of the Steering Committee;
- Assist the Steering Committee with coordinating stakeholder and public outreach/participation;
- Assist the Steering Committee with preparation of the NCCP planning agreement and HCP/NCCP implementing agreements;
- Provide recommendations for HCP/NCCP development to decision makers; and
- If needed, assist the Steering Committee with securing funding for HCP/NCCP development.





## **STAKEHOLDER COMMITTEE**

## **Attachment #2**

Date: May 2, 2007

### **DRAFT PLANNING AGREEMENT**

**PREPARED BY: Chris Devine, Planning Manager**

**DISCUSSION:** Included below is the draft Planning Agreement. This is the latest version that includes comments provided by Department of Fish and Game as well as city and county legal, administrative and planning staff. This document is currently being reviewed for a second time by city and county legal, administrative and planning staff. It will then be re-circulated to the wildlife agencies including DFG legal for their review and comment.

Please review the document, specifically sections 6.4.1 and 6.4.2, and provide any comments (verbal or written) at the meeting.

# **Planning Agreement**

by and among

**Butte County, City of Biggs, City of Chico, City of Gridley,  
City of Oroville, the California Department of Fish and Game,  
the United States Fish and Wildlife Service, and the  
National Marine Fisheries Service**

regarding the

**Butte County  
Natural Community Conservation Plan and  
Habitat Conservation Plan**

**Draft  
[May \_\_, 2007]**

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## Butte County HCP/NCCP Planning Agreement

This agreement regarding the planning and preparation of the Butte County Habitat Conservation Plan and Natural Community Conservation Plan (“Planning Agreement”) is entered into as of the Effective Date by and among the Local Agencies, the California Department of Fish and Game (“DFG”), the United States Fish and Wildlife Service (“USFWS”), the National Marine Fisheries Service (“NMFS”), and the Butte County Association of Governments (“BCAG”) These entities are referred to collectively as “Parties” and each individually as a “Party.” The DFG, USFWS, and NMFS are referred to collectively as “Wildlife Agencies.”

### 1. Definitions

Terms that are defined in Fish and Game Code section 2805 have the same meaning when used in this Planning Agreement. In addition, the following terms used in this Planning Agreement will have the meanings set forth below.

**1.1** “Anti-Deficiency Act” means title 31 of the United States Code section 1341.

**1.2** “Bald and Golden Eagle Protection Act” means the act prohibiting the taking or possession of and commerce in bald and golden eagles, title 16 of the United States Code section 668-668d.

**1.3** “BCAG” means the Butte County Association of Governments, a Joint Powers Authority formed pursuant to the Joint Exercise of Powers Act, Government Code sections 6500 et seq.

**1.4** “Biological Assessment” or “BA” means the information prepared by or under the direction of a Federal Action Agency for the purpose of identifying the potential effects of the agency action within the Planning Area on species which are listed or proposed to be listed and critical habitat which has been designated or proposed, and submitted to the United States Fish and Wildlife Service (“USFWS”) and/or National Marine Fisheries Service (“NMFS”) pursuant to section 7(c)(1) of FESA.

**1.5** “CEQA” means the California Environmental Quality Act, Public Resources Code, section 21000, *et seq.*

**1.6** “CESA” means the California Endangered Species Act, California Fish and Game Code, section 2050, *et seq.*

**1.7** “City” or “Cities” means the governments of the cities of Biggs, Chico, Gridley, and Oroville.

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- 1.8** “Cooperative Endangered Species Conservation Fund” means the funding available through the FWS from the Endangered Species Act, AKA Section 6 Non-traditional grants program.
- 1.9** “Corps” means the United States Army Corps of Engineers.
- 1.10** “County” means the government of the County of Butte.
- 1.11** “Covered Activities” means the activities that will be addressed in the Plan and for which the Local Agencies will seek an NCCP permit pursuant to Fish and Game Code, section 2835 and an incidental take permit pursuant to section 10 of FESA.
- 1.12** “Covered Species” means those species, both listed and non-listed, conserved and managed under an approved Plan that may be authorized for take under state and/or federal law.
- 1.13** “DFG” means the California Department of Fish and Game, a state agency formed pursuant to Fish and Game Code section 700.
- 1.14** “Effective Date” means the date on which this Planning Agreement is fully executed by DFG and the Local Agencies.
- 1.15** “Federal Action Agency” means a federal agency that authorizes, funds, or carries out actions that may require consultation with USFWS and/or NMFS pursuant to FESA section 7(a)(2).
- 1.16** “FESA” means the federal Endangered Species Act, 16 United States Code Section 1530, *et seq.*
- 1.17** “Habitat Conservation Plan” or “HCP” means a conservation plan prepared pursuant to section 10(a)(1)(B) of FESA.
- 1.18** “HCP/NCCP” means the joint Butte County habitat conservation plan and natural community conservation plan also referred to as the “Plan.”
- 1.19** “Implementing Agreement” or “IA” means the agreement required pursuant to Fish and Game Code section 2820, subdivision (b) and authorized under title 14 of the United States Code section 1539 (a)(2)(B) which defines the terms for implementing the Plan.
- 1.20** “Independent Science Advisors” or “Science Advisors” means a body consisting of scientists convened by BCAG to provide independent scientific input and analysis to assist in the preparation of the Plan.
- 1.21** “Land and Water Conservation Fund” means a program administered by the State Parks Department to provide matching grants to local governments for the acquisition and development of public outdoor recreation areas and facilities.

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- 1.22** “Listed Species” means those species designated as candidate, threatened or endangered pursuant to CESA and/or listed as threatened or endangered under FESA.
- 1.23** “Local Agencies” and “Local Agency” mean, individually or collectively, the County of Butte and cities of Biggs, Chico, Gridley, and Oroville.
- 1.24** “Natural Community Conservation Plan” or “NCCP” means a conservation plan created to meet the requirements of Fish and Game Code, Section 2801, *et seq.*
- 1.25** “Natural Community Conservation Planning Act” or “NCCPA” means Fish and Game Code, section 2801, *et seq.*
- 1.26** “NEPA” means the National Environmental Policy Act, title 42 of the United States Code section 4321, *et seq.*
- 1.27** “NMFS” means the National Marine Fisheries Service, a federal agency and a division of the Department of Commerce, also referred to as, the National Oceanographic and Atmospheric Administration (“NOAA Fisheries”).
- 1.28** “Planning Area” means the geographic area proposed to be addressed in the Plan as described in Exhibit A.
- 1.29** “Reportable Interim Project” means (1) general plan amendments, specific plans or community plans, annexations, and rezoning actions that allow development and construction activities or other projects or activities that require discretionary approvals from the Local Agencies that (2) are proposed prior to adoption of the Plan, and that (3) have the potential to adversely impact the proposed Covered Species and natural communities within the Planning Area. “Reportable Interim Project” does not include any of these activities for which an application has been approved or deemed complete by a Local Agency prior to the Effective Date of this Agreement.
- 1.30** “Stakeholder Committee” means a committee assembled by the Steering Committee that will be comprised of representatives of HCP/NCCP stakeholder interests and is intended to represent a diverse cross-section of the interests and views of the community, including representatives of landowners, growers, ranchers, tribes, developers and conservationists.
- 1.31** “Steering Committee” means a committee comprised of BCAG staff and representatives from each Local Agency and other agencies receiving permits from Wildlife Agencies upon completion of an approved HCP/NCCP which serves in an administrative capacity on behalf of the Local Agencies and is responsible for the preparation of the Plan.
- 1.32** “Take” or “Taking” refers to those terms as defined in the ESA and CESA.



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**1.33** “Technical Subcommittee” means a subcommittee established, as needed, by the Steering Committee to focus on development of specific aspects of the HCP/NCCP.

**1.34** “USFWS” means the United States Fish and Wildlife Service, a federal agency of the United States Department of the Interior.

**1.35** “Wildlife Agencies” means, collectively, the California Department of Fish and Game, the United States Fish and Wildlife Service, and the National Marine Fisheries Service.

## **2. Background**

### **2.1 Natural Community Conservation Planning Act**

The NCCPA was enacted to encourage broad-based planning to provide for effective protection and conservation of the state’s wildlife resources while continuing to allow appropriate development and growth. The purpose of natural community conservation planning is to provide for the conservation of biological diversity by protecting biological communities at the ecosystem and landscape scale. Conservation of biological diversity includes protecting sensitive and more common species, natural communities, and the ecological processes necessary to sustain the ecosystem over time. An NCCP identifies and provides for the measures necessary to conserve and manage natural biological diversity within the Planning Area, while allowing compatible and appropriate economic development, growth, and other human uses.

### **2.2 Purposes of NCCP Planning Agreements**

The purposes of NCCP Planning Agreements are to:

- Define the Parties’ goals and commitments with regard to development of the Butte County HCP/NCCP;
- Define the initial geographic scope of the Planning Area;
- Identify a preliminary list of natural communities and species known or reasonably expected to be found in those communities that are intended to be the initial focus of the Butte County HCP/NCCP;
- Identify preliminary conservation objectives for the Planning Area;
- Establish a process for the inclusion of independent scientific input into the planning process;
- Ensure coordination among the Wildlife Agencies, particularly with respect to FESA;
- Establish a process to review Reportable Interim Projects within the Planning Area that will help achieve the preliminary conservation objectives and maintain viable conservation opportunities and alternatives for the Plan; and
- Ensure public participation and outreach throughout the planning process.

### **2.3 Compliance with CESA and FESA**

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The Planning Area contains valuable biological resources, including native species of wildlife and their habitat. Among the species within the Planning Area are certain species that are protected, or may be protected in the future, under CESA and/or FESA. The Parties intend for the Plan to satisfy the requirements for an HCP under section 10(a)(1)(B) of FESA, and an NCCP under the NCCPA, and to serve as the basis for take authorizations under both Acts.

Section 2835 of the Fish and Game Code provides that after the approval of an NCCP, DFG may permit the taking of any covered species, listed or non-listed, whose conservation and management is provided for in the NCCP. Take of state-listed species may be authorized pursuant to CESA during development of the Plan.

FESA provides that after the approval of an HCP, USFWS and/or NMFS may permit the taking of wildlife species covered in the HCP if the HCP and permit application meet the requirements of section 10(a)(2)(A) and (B) of FESA. Take authorization for federally listed wildlife species covered in the HCP shall generally be effective upon approval of the HCP and issuance of an incidental take permit. Take authorization for non-listed wildlife species covered in the HCP becomes effective if and when the species is listed pursuant to FESA. Take authorization during plan preparation for wildlife species listed pursuant to FESA may be provided pursuant to individual permits issued pursuant to section 10(a)(1)(B), or consultations under section 7 of FESA.

The Parties also intend that the Plan will serve as a Biological Assessment that provides the basis for consultations between the Corps and the USFWS and/or NMFS under section 7(a)(2) of FESA to support the issuance of take authorizations for Covered Activities. The Parties acknowledge that the Plan may be used to address compliance with other applicable federal and State statutes.

For actions authorized, funded or carried out by a Federal Action Agency, take of listed species may be authorized under section 7 of FESA based on a biological opinion prepared by the USFWS and/or NMFS.

### **2.4 Section 7 of FESA**

To the extent allowed under law, the Parties intend that the mitigation and minimization measures included in the Plan, approved by the USFWS or NMFS and included as a condition of federal incidental take permits to the Local Agencies, will be incorporated into future Section 7 consultations between the USFWS or NMFS and the United States Army Corps of Engineers, the United States Bureau of Reclamation, or other applicable federal agencies regarding Covered Activities that may adversely affect Covered Species or their habitat.

### **2.5 Other Fish and Wildlife Protection Laws.**

Based on the Plan, the Local Agencies may seek approval or authorization under other State and federal fish and wildlife protection laws, including, but not

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necessarily limited to, the Magnuson-Stevens Fishery Act, the Migratory Bird Treaty Act, the Bald and Golden Eagle Protection Act, and various provisions of the Water Code and Fish and Game Code. The Parties agree to collaborate to explore the feasibility of developing the Plan to serve as the means by which Covered Activities may comply with these additional laws.

### **2.6 Concurrent Planning for Wetlands and Waters of the United States**

The Local Agencies intend to address impacts to wetlands and waters of the United States and changes to the bed, bank or channel of rivers, streams and lakes resulting from Covered Activities in the Planning Area. Based on the Plan, the Local Agencies may seek future programmatic permits or authorizations under the Clean Water Act and section 1601 (or section 1603) of the Fish and Game Code as necessary for Covered Activities. The Parties agree to work together to explore the feasibility of undertaking concurrent but separate planning regarding these permits. However, such programmatic permits or authorizations are not necessary for approval of the Plan or for issuances of take permits.

### **2.7 Assurances**

#### **2.7.1 Regulatory Assurances Under FESA**

Upon approval of the Plan and issuance of incidental take permits for Covered Activities and contingent upon the outcome of the *Spirit of the Sage Council v. Norton*, No. 1:98CV01873 (D.C. Cir.) litigation, USFWS and NMFS will provide assurances that neither the USFWS nor NMFS will require the commitment of additional land, water, or financial compensation or additional restrictions on the use of land, water, or other natural resources beyond the level otherwise agreed upon for Covered Species, without the consent of the affected Local Agencies, in accordance with 50 C.F.R. section 17.22(b)(5), section 17.32(b)(5), and section 222.307(g).

#### **2.7.2 Regulatory Assurances Under NCCPA**

The Parties anticipate that if the Plan meets the criteria for an NCCP permit under section 2835 of the Fish and Game Code, DFG will provide assurances consistent with its statutory authority upon approval of the Plan and issuance of NCCP permits to the Local Agencies. Under section 2820 subdivision (f) of the Fish and Game Code, DFG may provide assurances for plan participants commensurate with the level of long-term conservation and associated implementation measures provided in the Plan. In order to ensure that state regulatory assurances are legally binding, such provisions will be included in an Implementing Agreement.

### **3. Planning Goals**

The planning goals include the following:

- Provide for the conservation and management of Covered Species within the Plan Area;
- Preserve aquatic and terrestrial resources through conservation partnerships with the Local Agencies;

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- Allow for appropriate and compatible growth and development that is consistent with applicable laws;
- Balance open space, habitat, agriculture and urban development;
- Protect the rights of property owners;
- Provide a means to implement Covered Activities in a manner that complies with applicable State and Federal fish and wildlife protection laws, including CESA and FESA, and other environmental laws, including CEQA and NEPA;
- Provide a basis for permits necessary to lawfully take Covered Species;
- Provide a comprehensive means to coordinate and standardize mitigation and compensation requirements of FESA, CEQA, NEPA, and NCCPA within the Planning Area;
- Provide a less costly, equitable, more efficient project review process which results in greater conservation values than project-by-project, species-by-species review; and
- Comply with the FESA.

The Plan's goal to "provide for the conservation and management of Covered Species" means that the Plan will ensure the implementation of measures that will contribute to the recovery of Covered Species, taking into consideration the scope of the Planning Area in relation to the geographic range of the Covered Species, and the effect of Covered Activities on these species in relation to other activities not addressed by the Plan. The Parties acknowledge that this planning goal is intended to reflect the constraints inherent to the Plan that may limit its capacity to ensure the recovery of Covered Species.

The Parties further recognize that, until conservation strategies are developed for the Covered Species and their habitats, and conservation partnerships formed, the cost and feasibility of achieving these goals will not be known. During the development of the Plan, the Plan's goals, preliminary conservation objectives, Covered Species, Covered Activities, and Planning Area may be modified to ensure that implementation of the Plan will be practicable. The Parties recognize that, regardless of any such modifications, the Plan must meet applicable State and federal regulatory requirements to support the issuance of permits or authorizations for Covered Activities.

#### **4. Planning Area and Plan Participants**

##### **4.1 Planning Area**

The geographic area to be addressed in the Plan covers approximately 620,000 acres in Butte County as depicted in Exhibit A. The Planning Area includes the lowland and foothill communities of Butte County. The northern, western, and southern portions of the plan area are bounded by the Butte County line. The eastern boundary of the Planning Area extends to an elevation of 900-1100 feet, which encompasses most of the oak communities present in Butte County. Major drainages and water courses in the Planning Area includes part of the Sacramento River, parts of Butte Creek and Big Chico Creek, and the Feather

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River downstream of Oroville Dam to the Sutter County line. The Planning Area encompasses the boundaries and spheres of influences (“SOIs”) of the Cities of Chico, Oroville, Biggs, and Gridley.

### **4.2 BCAG and the Local Agencies**

BCAG and the Local Agencies are the local sponsors of the Plan. As part of this planning process, the Local Agencies have committed to undertake a collaborative, systematic approach to protecting the Planning Area’s ecologically significant resources, including candidate, threatened and endangered species and their habitats, open space, and working landscapes, and to ensure that the Covered Activities comply with applicable federal and state laws. BCAG will manage and coordinate funding for the development of the HCP/NCCP for submission to the governing boards of the Local Agencies and ultimately to the USFWS and DFG.

### **4.3 California Department of Fish and Game**

DFG is the agency of the State of California authorized to act as trustee for wildlife (as defined in Fish and Game Code section 1802) for the State on behalf of its residents. DFG is authorized to approve NCCPs pursuant to the NCCPA, administer and enforce CESA and other provisions of the Fish and Game Code and regulations adopted pursuant to the Fish and Game Code, and enter into agreements with federal and local governments and other entities for the conservation of species and habitats pursuant to CESA and the NCCPA.

### **4.4 National Marine Fisheries Service**

NMFS is an agency of the United States Department of Commerce authorized by Congress to administer and enforce FESA with respect to marine mammals and certain fish species (including anadromous fish), and to enter into agreements with states, local governments, and other entities to conserve federally threatened, endangered, and other species of concern. The NCCPA and this Planning Agreement require coordination with NMFS with respect to FESA.

### **4.5 United States Fish and Wildlife Service**

The USFWS is an agency of the United States Department of the Interior authorized by Congress to administer and enforce FESA with respect to terrestrial wildlife, certain fish species, insects and plants, and to enter into agreements with states, local governments, and other entities to conserve threatened, endangered, and other species of concern. The NCCPA and this Planning Agreement require coordination with USFWS with respect to FESA.

## **5. Preliminary Conservation Objectives**

The preliminary conservation objectives intended to be achieved through the Plan are to:

- Provide for the protection of Covered Species and associated natural communities, and ecosystems that occur within the Planning Area;
- Preserve the diversity of fish, wildlife, plant and animal communities within the Planning Area;

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- Minimize and mitigate, as appropriate, the take or loss of proposed Covered Species;
- Identify and designate biologically sensitive habitat areas;
- Preserve habitat and contribute to the recovery of Covered Species;
- Reduce the need to list additional species;
- Set forth species specific goals and objectives;
- Set forth specific habitat-based goals and objectives expressed in terms of amount, quality, and connectivity of habitat; and
- Implement an adaptive management and monitoring program to respond to changing ecological conditions.

### 5.1 Conservation Elements

#### 5.1.1 Ecosystems, Natural Communities, and Species List

The Plan will employ a strategy that focuses on the conservation of ecosystems, natural communities, and ecological processes in the Planning Area. In addition, the Plan will employ species-specific take minimization, mitigation, conservation and management measures where appropriate.

A narrative description of natural communities and a preliminary list of the endangered, threatened, candidate, or other sensitive species known, or reasonably expected to be found in the Planning Area, that are intended to be the initial focus of the Plan is attached as Exhibit B.<sup>1</sup> This list identifies the species that the Parties will evaluate for inclusion in the Plan. Exhibit B is not necessarily the Plan's final Covered Species list. The Parties anticipate that species may be added or removed from the list once more is learned about the nature of the Covered Activities and the impact of Covered Activities on native species within the Planning Area. The Parties acknowledge that inclusion of a particular species as a Covered Species in the Plan will require an individual determination by the applicable Wildlife Agency that the Plan adequately provides for conservation of the species in accordance with State and/or Federal permit issuance requirements.

#### 5.1.2 Conservation Areas and Viable Habitat Linkages

The Plan will protect, enhance, or restore habitat throughout the Planning Area and provide or enhance habitat linkages, where appropriate within the Planning Area. It will also identify where linkages between the conservation areas and important habitat areas outside the Planning Area should occur. The Plan's conservation strategy will address a range of environmental gradients and ecological functions, and will address appropriate principles of ecosystem management, ecosystem restoration and population biology.

#### 5.1.3 Project Design

The Plan will ensure that Covered Activities will be appropriately designed to avoid and/or minimize and mitigate on-site and off-site impacts to resources.

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<sup>1</sup> Alternatively, we can add the species list in this section and not attach an exhibit.

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## 6. Preparing the Plan

The Parties intend that this Planning Agreement will fulfill the NCCPA requirements pertaining to planning agreements and will establish a mutually agreeable process for preparing the Plan that fulfills the requirements of the NCCPA and FESA. The process used to develop the Plan will incorporate independent scientific input and analysis, and include extensive public participation with ample opportunity for comment from the general public as well as advice solicited by the Local Agencies from key groups of stakeholders as described below.

### 6.1 Best Available Scientific Information

The Plan will be based on the best available scientific information, including, but not limited to:

- principles of conservation biology, community ecology, landscape ecology, individual species' ecology, and other scientific data and information;
- thorough information about all natural communities and proposed Covered Species on lands throughout the Planning Area; and
- advice from well-qualified, independent scientists.

### 6.2 Data Collection

The Parties agree that information regarding the subjects briefly described below in Section 6.2.1. is important for preparation of the Plan. The Parties therefore agree that data collection for preparation of the Plan should be prioritized to develop more complete information on these subjects. Preference should be given to collecting data essential to address conservation requirements of natural communities and proposed Covered Species. The science advisory process and analysis of existing information may reveal data gaps currently not known that are necessary for the full and accurate development of the Plan. Data needed for preparation of the Plan may not be known at this time nor identified herein. Therefore, the Parties anticipate that data collection priorities may be adjusted from time to time during the planning process. All data collected for the preparation and implementation of the Plan will be made available to the Wildlife Agencies and the Local Agencies in hard and digital formats, as requested.

#### 6.2.1 Types of Data

Data will be gathered to establish baseline conditions, evaluate impacts of Covered Activities on Covered Species, and develop conservation strategies and measures for Covered Species. Data needed to accomplish these tasks may include, but will not necessarily be limited to: species life histories, species occurrence, population abundance and distribution, population trends, population genetics, habitat locations and conditions, hydrologic regime, hydrodynamics, temperature, flow patterns, water quality, barrier and hazard types and locations, habitat connectivity, ecological threats and stressors.

### 6.3 Independent Scientific Input

The Local Agencies and DFG intend to include independent scientific input and analysis to assist in the preparation of the Plan. For that purpose, a list of potential Independent Science Advisors is being developed by BCAG. The

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Science Advisors will at a minimum, provide recommendations, advice and guidance on:

- scientifically sound conservation strategies for species and natural communities proposed to be covered by the Plan;
- reserve design principles that address the needs of species, landscapes, ecosystems, and ecological processes in the planning area proposed to be addressed by the Plan;
- management principles and conservation goals that can be used in developing a framework for the monitoring and adaptive management component of the plan; and
- data gaps and uncertainties so that risk factors can be evaluated.

The Science Advisors will consist of approximately 12 scientists currently being assembled by BCAG, in consultation with the Wildlife Agencies, to provide technical expertise on the affected taxonomic groups, larger scale ecological processes, principles of conservation biology, and conservation and land use planning in practice. The Independent Science Advisors may be asked to provide additional feedback on key issues during preparation of the Plan, and may prepare reports regarding specific scientific issues throughout the process, as deemed necessary by the Local Agencies and DFG.

Design and implementation of the science advisory process must be done in a coordinated fashion and with the mutual agreement of the Local Agencies and DFG. The Local Agencies and DFG will establish a funding source and payment procedures. The independent science advisory process will include the development of a detailed scope of work, use of a professional facilitator, input from technical experts, and production of a report by the scientists. In addition, the Local Agencies and DFG will make the report available for use by all participants and the public during the planning process.

### **6.4 Public Participation**

The Local Agencies and BCAG will prepare the Plan in an open and transparent process with an emphasis on obtaining input from a balanced variety of public and private interests including state, local, and tribal governments, landowners, conservation organizations, agricultural commissioners, agricultural organizations, and the general public. The planning process will provide for thorough public review and comment, and include a stakeholder group that will review the Plan at every stage of development. To assist in the development of the Plan, BCAG will form the following ad hoc groups: 1) a Steering Committee, 2) Stakeholder Committee, and 3) Technical Subcommittees. The Stakeholder Committee will be open to public participation as set forth below in Section 6.4.2.

#### **6.4.1 Steering Committee**

The Steering Committee will act in an administrative capacity and will be responsible for the preparation of the Plan. Responsibilities of the Steering Committee include:



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- managing the Consultants and working with the Consultants to establish timelines, work products and outreach processes;
- reviewing key HCP/NCCP elements (e.g., covered species, Plan Area, covered activities, conservation strategy, impact assessment, implementing entity);
- providing guidance as requested by Technical Subcommittees (see below);
- monitoring HCP/NCCP development budgets;
- securing grant funding for Plan preparation;
- providing oversight of HCP/NCCP development;
- communicating HCP/NCCP progress and issues to the County and City Administrators Committee, Stakeholder Committee, and Planning Directors Group;
- providing for public participation and outreach;
- reviewing and formulating responses to recommendations for HCP/NCCP development made by DFG, USFWS, NMFS, the Science Advisory Panel and the Stakeholder Committee;
- and reviewing HCP/NCCP scopes of work, budgets, and scope modifications of the Consultants.

Staff from the Wildlife Agencies will work with the Steering Committee to provide technical expertise and share information for the development of the Plan. All such meetings are open to the public and provide for public comment.

### **6.4.2 Stakeholder Committee**

The Stakeholder Committee is responsible for reviewing draft sections of the HCP/NCCP (e.g., Covered Species, Plan Area, ecological baseline report, impact assessment, and elements of the conservation strategy) and providing recommendations for HCP/NCCP development to the Steering Committee. The role of the Committee's members includes representing the interests of their organizations at meetings and reporting on development of the Plan to other members of their organizations on a regular basis. The Stakeholder Committee will meet approximately quarterly. All such meetings are open to the public and provide for public comment.

The NCCP Act section 2801(j) states that "...[t]he process should encourage the active participation and support of landowners and others in the conservation and stewardship of natural resources in the plan area during plan development using appropriate measures, including incentives."

### **6.4.3 Technical Subcommittees**

The Steering Committee may establish one or more technical subcommittees, as needed, to focus on development of specific aspects of the HCP/NCCP.

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### **6.4.4 Outreach**

The Local Agencies, in concert with the Steering Committee, will provide access to information for persons interested in the Plan. The Parties expect and intend that public outreach regarding preparation of the Plan will be conducted largely by and through the Stakeholder Committee meetings. In addition, the Local Agencies will continue to hold public meetings to present key decisions regarding the preparation of the Plan to allow the public the opportunity to comment on and inquire about the decisions as such items are presented to their city councils or governing boards. Other outreach efforts will include maintenance of a project website, invited presentations to interested organizations and occasional public workshops.

### **6.4.5 Availability of Public Review Drafts**

The Local Agencies will designate and make available for public review in a reasonable and timely manner “public review drafts” of pertinent planning documents including, but not limited to, plans, memoranda of understanding, maps, conservation guidelines, and species coverage lists. Such documents will be made available by the Local Agencies at least ten working days prior to any public hearing addressing these documents. In addition, the Local Agencies will make available all reports and formal memoranda prepared by the Steering Committee. To the extent allowed by State and Federal law, this obligation will not apply to all documents drafted during preparation of the Plan. However, the Local Agencies will periodically designate various pertinent documents drafted during preparation of the Plan as “public review drafts”, and will make these documents available to the public. The Parties agree that documents will be available for public review on the internet at [www.bcag.org](http://www.bcag.org). In addition, documents will be available for distribution by BCAG in hard copy form.

### **6.4.6 Public Hearings**

Public hearings regarding development of the Plan will be planned and conducted in a manner by each Local Agency, as may be appropriate, that satisfies the requirements of CEQA, NEPA, and any other applicable state or federal laws.

### **6.4.7 Public Review and Comment Period Prior to Adoption**

The Local Agencies will make the proposed draft Plan and Implementing Agreement available for public review and comment a minimum of 60 days before adoption. The Local Agencies expect to fulfill this obligation by distributing the draft Plan and Implementing Agreement with the draft environmental impact report prepared for the Plan pursuant to CEQA and/or the draft environmental impact statement prepared for the Plan pursuant to NEPA.

### **6.5 Covered Activities**

The Plan will identify and address the Covered Activities carried out by the Local Agencies that may result in take of Covered Species within the Planning Area. Covered Activities may include: those existing, planned and proposed land uses over which the Local Agencies have land use authority; certain agricultural

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activities over which the Local Agencies exercise control for purposes of the Plan; habitat restoration and conservation actions; and adaptive habitat management and monitoring activities in the Planning Area. The Parties intend that the Plan will allow Covered Activities in the Planning Area to be carried out in compliance with NCCPA, CESA and FESA.

### **6.6 Interim Project Processing**

The Parties recognize that before the Wildlife Agencies approve the Plan, certain projects and activities may be proposed within the Planning Area. The Parties agree to the following interim project process to: (1) help ensure that Reportable Interim Projects approved or initiated in the Planning Area before completion of the Plan are consistent with the preliminary conservation objectives (Section 5) and do not compromise successful completion and implementation of the Plan; (2) facilitate CEQA, CESA, and FESA compliance for interim projects that require such compliance; and (3) ensure that the processing of interim projects is not unduly delayed during preparation of the Plan. DFG and Plan Participants shall consider information developed by the Independent Science Advisors when reviewing such projects and activities.

#### **6.6.1 Reportable Interim Projects**

The Local Agencies proposing to undertake or approve an interim project will notify the Wildlife Agencies pursuant to section 6.6.2 about Reportable Interim Projects that have the potential to adversely impact proposed Covered Species and natural communities within the Planning Area.

#### **6.6.2 Notification Process**

The Local Agency proposing to undertake or approve a Reportable Interim Project will notify the Wildlife Agencies of the project prior to the time, or as soon as possible after, the project application is deemed complete. The Local Agency will notify the particular individuals<sup>2</sup> designated by the Wildlife Agencies to be notified of Reportable Interim Projects, and will provide these designated individuals with (1) a depiction of the project location on a USGS 7.5 minute quadrangle map with the quadrangle name and section, township, and range identified; (2) a description of the project along with the land cover types present on the project site using the most current land cover data available to the Local Agency; and (3) any other biological information available to the Local Agency about the project area.

#### **6.6.3 Wildlife Agency Review**

The Wildlife Agencies will review Reportable Interim Projects in a timely manner, and will use reasonable efforts to provide any comments on the projects to the referring Local Agency within the legally prescribed comment periods. The Wildlife Agencies will recommend mitigation measures or project alternatives that would help achieve the preliminary conservation objectives and will not preclude

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<sup>2</sup> Have DFG and FWS identified the particular individuals who should be notified of the Reportable Interim Projects and would it be possible to identify them here.

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important conservation planning options or connectivity between areas of high habitat values. Any take of listed or candidate species arising out of a Reportable Interim Project must be authorized pursuant to applicable federal and/or state law. In providing any such authorizations, the Wildlife Agencies acknowledge that they may not impose mitigation measures or project alternatives that result in regulatory obligations that exceed the requirements of applicable State and federal laws.

### **6.6.4 Coordinating Interim Process with Plan Preparation**

Representatives of the Parties will meet as needed to discuss Reportable Interim Projects and to coordinate with development of the Plan. Independent scientific input will be considered by the Parties during interim project review. Individual project compliance with state and federal laws will continue to be the responsibility of the Local Agency responsible for approval of the Reportable Interim Project.

## **6.7 Protection of Habitat Land During Planning Process**

### **6.7.1 Conservation Lands Acquired/Protected**

The Parties may elect to preserve, enhance or restore, either by acquisition or other means (e.g., conservation easements; designated setbacks), lands in the Planning Area that contain native species of wildlife or natural communities prior to approval of the Plan. The Local Agencies will confer with the Wildlife Agencies regarding potential lands to be protected. The Wildlife Agencies agree to credit such lands toward the land acquisition or habitat protection requirements of the Plan as appropriate, provided the lands are permanently conserved, restored, or enhanced, and managed and contribute to the Plan's conservation strategy.

### **6.7.2 Mitigation Lands**

Lands, or portions of lands, acquired or otherwise protected solely to mitigate the impacts of specific projects, actions, or activities approved prior to Plan approval will only be considered as mitigation for those projects, actions or activities. Such lands will be considered during the Plan analysis, but will not count toward future mitigation obligations of the Plan.

## **6.8 Implementing Agreement**

The NCCPA requires that any NCCP approved by DFG include an Implementing Agreement that contains provisions for:

- conditions of species coverage;
- the long-term protection of habitat reserves and/or other conservation measures;
- implementation of mitigation and conservation measures;
- terms for suspension or revocation of the take permit;
- procedures for amendment of the Plan and IA and take authorizations;
- implementation of monitoring and adaptive management;
- oversight of Plan effectiveness and funding; and
- periodic reporting.

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While the Plan is being developed, the Parties will negotiate a draft Implementing Agreement that will satisfy the requirements of the NCCPA and FESA, and include specific provisions and procedures for the implementation, monitoring and funding of the Plan. A draft of the Implementing Agreement will be made available for public review and comment with the final public review draft of the Plan.

### 7. Commitment of Resources

#### 7.1 Funding

The Parties agree that they will work together to bring available funding to the planning effort. Notwithstanding the foregoing, BCAG has assumed the primary responsibility during the planning process for funding the preparation of the Plan.

##### 7.1.1 Local Funding

The Local Agencies recognize that, as prospective applicants for state and federal permits, they have the primary responsibility for developing a plan that meets applicable legal requirements and that as a result, the development of the Plan will be funded by BCAG. Notwithstanding the foregoing, the Parties recognize that the costs and mechanisms for funding the implementation of the Plan shall be determined in the future through the planning process. The Parties further agree that in no event shall the general fund of each respective Local Agency be relied upon to fund the development and implementation of the Plan.

##### 7.1.2 DFG Assistance with Funding and DFG Costs

DFG agrees to cooperate with the other Parties in identifying and securing, where appropriate and available, federal and state funds earmarked for natural community conservation planning. The Parties agree that the Local Agencies shall not provide reimbursement to DFG for its participation in the planning phase of the Plan as provided in Fish and Game Code, Section 2810, except as provided in Section 8.7 of this Planning Agreement. DFG's commitments and obligations under this Planning Agreement are subject to the availability of appropriated funds and the written commitment of funds by an authorized DFG representative.<sup>3</sup>

##### 7.1.3 USFWS and NMFS Assistance with Funding

The USFWS and the NMFS agree to cooperate with the other Parties in identifying and securing, where appropriate, federal and state funds earmarked for habitat conservation planning purposes. Potential federal funding sources may include: the USFWS' Cooperative Endangered Species Conservation Fund, Land and Water Conservation Fund, and land acquisition grants or loans through other federal agencies such as the Environmental Protection Agency, the Army Corps of Engineers, or the Departments of Agriculture or Transportation. The commitments of the USFWS and the NMFS under this Planning Agreement are subject to the requirements of the federal Anti-Deficiency Act (31 U.S.C. section

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<sup>3</sup> Subject to review of funding arrangement with CDFG.

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1341) and the availability of appropriated funds. The Parties acknowledge that this Planning Agreement does not require any federal agency to expend its appropriated funds unless and until an authorized officer of that agency provides for such expenditures in writing.

### **7.2 Expertise of Wildlife Agencies**

Subject to funding and staffing constraints, the Wildlife Agencies agree to provide technical and scientific information, analyses and advice to assist the Local Agencies with the timely and efficient development of the Plan. The Parties further agree that the Local Agencies will share with the Wildlife Agencies information obtained through the development of the Plan.

## **8. Miscellaneous Provisions**

### **8.1 Public Officials Not to Benefit**

No member of or delegate to Congress will be entitled to any share or part of this Planning Agreement, or to any benefit that may arise from it.

### **8.2 Statutory Authority**

The Parties will not construe this Planning Agreement to require any Party to act beyond, or in a manner inconsistent with, its statutory authority.

### **8.3 Multiple Originals**

This Planning Agreement may be executed by the Parties in multiple originals, each of which will be deemed to be an official original copy.

### **8.4 Effective Date**

The Effective Date of this Planning Agreement will be the date on which it is fully executed by DFG and the Local Agencies. This Planning Agreement is effective as to each of the other Parties at the time that Party signs the Planning Agreement.

### **8.5 Duration**

This Planning Agreement will be in effect until the Plan is approved and permitted by the Wildlife Agencies, but shall not be in effect for more than five years following the Effective Date, unless extended by amendment. The Parties intend that the Plan be adopted and permits issued prior to the end of calendar year 2010. This Planning Agreement may be terminated pursuant to section 8.7 below.

### **8.6 Amendments**

This Planning Agreement can be amended only by written agreement of all Parties.

### **8.7 Termination and Withdrawal**

Subject to the requirement in Section 8.7.1 of the Planning Agreement, any party may withdraw from this Planning Agreement upon 30 days' written notice to the other Parties. The Planning Agreement will remain in effect as to all non-

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withdrawing Parties unless the remaining Parties determine that the withdrawal requires termination of the Planning Agreement. This Planning Agreement can be terminated only by written agreement of all Parties.

### 8.7.1 Funding

In the event that federal or State funds have been provided to assist with Plan preparation or implementation, any Party withdrawing from this Planning Agreement shall return to the granting agency unspent funds awarded to that Party prior to withdrawal. A withdrawing Party shall also provide the remaining Parties with a complete accounting of the use of any federal or State funds it received regardless of whether unspent funds remain at the time of withdrawal. In the event of termination of this Planning Agreement, all Parties who received funds shall return any unspent funds to the grantor prior to termination.

### SIGNATURES:

Dated: \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
City of Biggs

By: \_\_\_\_\_

Title: \_\_\_\_\_

Dated: \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
City of Chico

By: \_\_\_\_\_

Title: \_\_\_\_\_

Dated: \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
City of Gridley

By: \_\_\_\_\_

Title: \_\_\_\_\_

Dated: \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
City of Oroville

**DRAFT**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Dated: \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
County of Butte



**DRAFT**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Dated: \_\_\_\_\_, 20\_\_

CALIFORNIA DEPARTMENT OF FISH AND  
GAME

By: \_\_\_\_\_

Sonke Mastrup, Deputy Director  
Habitat Conservation Division

Dated: \_\_\_\_\_, 20\_\_

US FISH AND WILDLIFE SERVICE

By: \_\_\_\_\_

[insert name and title]

Dated: \_\_\_\_\_, 20\_\_

NATIONAL MARINE FISHERIES SERVICE  
[insert as appropriate]

By: \_\_\_\_\_

[insert name and title]

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**EXHIBIT A**

**Planning Area Boundaries**

**DRAFT**

**EXHIBIT B**

**Natural Communities and Species List**



## **STAKEHOLDER COMMITTEE**

## **Attachment #3**

Date: May 2, 2007

### **DRAFT BUTTE REGIONAL HCP/NCCP ACRONYM LIST**

**PREPARED BY: Chris Devine, Planning Manager**

**DISCUSSION:** Included below is a draft Butte Regional HCP/NCCP acronym list. This has been assembled to consolidate the definitions of commonly used acronyms used in documents associated with the development of the Butte Regional HCP/NCCP and is intended to be used as a reference tool when reviewing documents and to aid newcomers to the process.

Please review the list and provide any comments (written or verbal) on any additional acronyms to add or suggested changes.

## Butte Regional HCP/NCCP Acronym List

**ACOE** – U.S. Army Corps of Engineers  
**BA/BO** - Biological Assessment/Biological Opinion  
**BCAG** -Butte County Association of Governments  
**BCM** - Butte County Meadowfoam  
**BEC** – Butte Environmental Council  
**BIA** – Building Industry Association  
**BLM** - Bureau of Land Management  
**CDF** – California Dept of Forestry (Fire Protection)  
**CDFG** – California Department of Fish & Game (DFG)  
**CESA** – California Endangered Species Act--State legislation  
**CEQA** – California Environmental Quality Act  
**CNDDDB** – California Natural Diversity Database (known species locations from DFG)  
**CNPS** – California Native Plant Society  
**CSUC** – California State University, Chico  
**DFG** – California Department of Fish and Game  
**DU** – Ducks Unlimited  
**DWR** – California Department of Water Resources  
**EA** – Environmental Assessment/Ecological Assessment  
**EIR** – Environmental Impact Report  
**EIS** – Environmental Impact Statement  
**EPA** – Environmental Protection Agency  
**FESA** – Federal Endangered Species Act  
**FTP** – File Transfer Protocol (websites for transferring large files)  
**GIS** – Geographical Information Systems (computer-based mapping)  
**HCP** – Habitat Conservation Plan (federal)  
**ITP** – Incidental Take Permit  
**NCCP** - Natural Communities Conservation Plan (state)  
**NCCPA** – Natural Communities Conservation Plan Act  
**NEPA** – National Environment Policy Act  
**NF** – National Forest  
**NMFS** – National Marine Fisheries Service (Aka NOAA Fisheries)  
**NOAA Fisheries**– National Oceanic and Atmospheric Administration Fisheries (Aka NMFS)  
**NRCS** – Natural Resources Conservation Service (Under USDA)  
**NWR** – National Wildlife Refuge  
**OHV** – Off-Highway Vehicle  
**ORV** – Off-Road Vehicle  
**PRBO** – Point Reyes Bird Observatory  
**RCD** – Butte County Regional Conservation District  
**RWQCB** – Regional Water Quality Control Board  
**SOI** – Sphere of Influence  
**SPI** – Sierra Pacific Industries

**TNC** – The Nature Conservancy  
**USDA** – United States Department of Agriculture  
**USGS** – United States Geologic Survey  
**USFS** – United States Forest Service  
**USFWS** – United States Fish and Wildlife Service  
**VELB** – Valley Elderberry Longhorn Beetle



## **STAKEHOLDER COMMITTEE**

## **Attachment #4**

Date: May 2, 2007

### **DRAFT STAKEHOLDER COMMITTEE MEETING NOTES FROM 4-4-07 MEETING**

**PREPARED BY: Chris Devine, Planning Manager**

**DISCUSSION:** Included are draft meeting notes from the 4-4-07 Stakeholder Committee meeting.

Please review the draft notes and provide any comments (written or verbal) at the meeting.

# Butte Regional HCP/NCCP Stakeholder Committee Meeting

April 04, 2007, 11:00 a.m. to 3:00 p.m.

BCAG

## Meeting Summary

Chris Devine (BCAG)	Scott McNall (CSU, Chico)
Jon Clark (BCAG)	Phil Johnson (Altacal Audubon)
Jamison Watts (Nor Cal Reg Land Trust)	John Merz (Sac River Preservation Trust)
Jane Dolan (BCAG Board)	Jason Bougie (BIA)
Jenny Marr (CDFG)	Jim Estep (SAIC subcontractor)
Jennifer Hogan (USFWS)	Paul Cylinder (SAIC)
Jesse Wild (USFWS)	Letty Brown (SAIC)
Ted Trimble (Western Canal Water District )	Colleen Aguiar (Butte County Farm Bureau)
Scott Huber (Altacal Audubon)	Pia Sevelius (BC-RCD)
Bill Haas (PCCA/MLC of CNPS)	Richard Price (Butte Cnty Ag Commissioner)
Barbara Vlamis (BEC)	Mike Miller (Butte College District)
GeneAnna McMillan (BEC)	Suellen Rowlison (CNPS)

### Associated documents/handouts:

1. Agenda including Meeting Notes from Stakeholder Meeting March 14<sup>th</sup>, 2007.
2. Draft Planning Agreement
3. Preliminary Short list of Science Advisory Panel Candidates.
4. Handout from Bill Haas, PCCA and MLC of CNPS.

### Action Items and Key Recommendations

- Committee's comments on the short list of Science Advisory Panel candidates are being solicited as soon as possible (due to Chris Devine).
- Portions of the draft Planning Agreement regarding the role of Committees are being revised by Stakeholder Committee members. Their suggested changes will be reviewed at the next meeting. Additionally, BCAG will provide a red-line version of the draft Planning Agreement, showing template and added language, also for review at the next meeting.
- The need was identified to bring HCP/NCCP planning process information to the Citizen's Advisory Committee on the General Plan update process. Agreement was made that BCAG and possibly Consultant(s) will attend an upcoming Citizen's Advisory Committee meeting and deliver information.
- Committee agreed that a list called "Species of Local Concern" is needed. Jim Estep is working with Stakeholder Committee members on this.
- Agreement that Peregrine Falcon should be added to the Potential Covered Species list. Jim Estep will create the species account and it will be submitted to the Committee for review.



- Outreach efforts by BCAG staff and Stakeholder Committee members to bring more parties (e.g., sportsmen groups, tribal groups, large landowners, watershed groups) to the table will continue.
- Many Committee members offered specific data items (eg. maps, data sets) applicable to the Ecological Baseline Report (including the Potential Covered Species accounts). SAIC will follow up with these individuals.
- Several dates were identified as potential dates for a working session to review maps of the Butte Regional HCP/NCCP Planning Area. Letty Brown will follow-up with a final date shortly.
- SAIC will prepare revised draft of Ecological Baseline Report based on Stakeholder Committee comments for the Science Panel review.
- Next meeting will be held May 02, from 11am- 3pm, at BCAG.

### **Meeting Purpose:**

- Personal Introductions;
- Discussion of Roles and Responsibilities of Committees (revisit of draft handout);
- Science Advisory Panel Status;
- Planning Agreement;
- Interim Projects Tracking;
- Review of comments submitted to 16 Additional Species for Draft Ecological Baseline Conditions report;
- Set-up of Working Session to Review Maps of Butte Regional HCP/NCCP Planning Area
- Assignment of next meeting time.

### **Discussion of Roles of Committees and the Science Advisory Panel:**

- Supervisor Dolan opened discussion of the *Draft Planning and Decision- Making Process* handout. Revisions were not available at the meeting start, so we will revisit this topic in the next meeting and will review comments provided by Bill Haas.
- Committee discussed the role of the Science Advisory Panel, which is in the process of being chosen by an independent science facilitator (Dr. Wayne Spencer of the Conservation Biology Institute). The Science Panel is an independent scientific committee that will peer review the scientific information used to develop the HCP/NCCP. CDFG recommends reading their website article regarding the role of the Science Panel. This is also posted on the buttehcp website under Documents.
- Discussion of how Science Panel candidates are chosen. They will have expertise in covered species, local ecosystems, and/or the principles of conservation biology. One Committee member summarized the Panel as “separate, independent, and absolutely credible.” Committee’s comments on the long list have been submitted and comments are now being solicited on the short list (due within one week to Chris Devine).
- The Science Panel budget was discussed as well as the extent of their involvement in the HCP/NCCP process. Consultant and resource agencies explained that they

will be involved multiple times in the process, including in the current phases of developing the ecological baseline information, and later in the phases of impact assessment, conservation strategies, and creation of the monitoring and adaptive management plans.

- It is anticipated that the Science Panel will be chosen by May, at which point they will be asked to review the draft Ecological Baseline Report and conduct a field tour and workshop.
- Suggestion was made that the Committee should prepare a list of science-related questions that arise during Committee meetings to go to the Science Panel, and that these should be general rather than specific in scope.

### **Planning Agreement and Interim Projects Tracking:**

- The Planning Agreement falls under the NCCP Act. Discussion of the role of the various committees as written in the Planning Agreement. Barbara Vlamis and Bill Haas volunteered to rewrite the section that describes committee roles.
- Question: Can we look at the language of the draft Planning Agreement to better understand what is template language and what is added language? At the next Committee meeting, a red-line version of the draft Planning Agreement showing template and added language will be provided for the Committee's review.
- After the Planning Agreement is finalized with all the signatory entities, a 21-day public comment period will begin.
- Barbara Vlamis discussed the role of illegal activities in Butte County that are leading to adverse impacts on resources. Suggestion made that the Committee take these into consideration in the HCP/NCCP process.
- Discussion of the need for a forum to bring HCP information to the Citizen's Advisory Committee (for the General Plan updating process). Several members are on both the HCP Stakeholder and the Citizen's Advisory Committees. Recommendation made that this happen soon. May 31<sup>st</sup> is the date of an upcoming meeting and BCAG and potentially Consultant will attend.
- Discussion of "interim projects". These are development projects that are initiated during the HCP/NCCP planning stages but before its implementation. What are the mechanisms for tracking such projects? Consultants are working with the local agency planning offices to ensure that these projects are documented.

### **Discussion of Potential Covered Species List and 16 Additional Species Accounts:**

- Committee discussed the Potential Covered Species list. Question: How are these species chosen? Resource agencies and Consultants explained that these include both listed and non-listed species (the non-listed species covered under the plan should be treated as though they were listed) that will need authorization for incidental take permits. Key criteria used to develop the Potential Covered Species list are as follows: the species occur or have the potential to occur within the planning area, and are likely to be impacted by Covered Activities; the species are state- or federally listed as threatened or endangered, or may become listed during the term of the permit; sufficient information is available about the species

- to assess impacts and to develop conservation measures. Resource agency biologists highlighted that regulatory needs dictate many elements of this list.
- Discussion of what to do about species not on the Potential Covered Species list, such as locally rare species that are not federally- or state listed, and are not expected to become listed. Agreement made that a list called “Species of Local Concern” will be created. These species will be discussed in the Covered Natural Communities sections of the Ecological Baseline Report, and are also evaluated under the NEPA/CEQA process. SAIC will work with Committee members to create this list.
  - Agreement that Peregrine Falcon should be added to the Potential Covered Species list. Jim Estep will create the species account and it will be submitted to the Committee for review.
  - The need to evaluate or reevaluate species for inclusion on the Potential Covered Species list was discussed and the topic will be revisited at the next meeting.
  - Discussion of Potential Covered Species list and agricultural issues, as well as the Neighboring Landowner Assurances and Safe Harbors Act. More discussion of these to come.
  - No written comments on the 16 Additional Species Accounts have been submitted to date. Oral comments were received at the meeting.
  - Opportunities for additional data for insertion into the document were identified. SAIC will follow up with these individuals.
  - Several dates were identified as potential dates for a working session to review maps of the Butte Regional HCP/NCCP Planning Area. Letty Brown will follow-up with a final date shortly.

**Upcoming Meetings:**

- Next Stakeholder meeting will occur on Wednesday, May 2nd, 11:00 am- 3:00 pm, at BCAG. Agenda items identified are as follows: Roles and Responsibilities of Committees; Science Panel update; Planning Agreement review; Potential Covered Species list.
- A date for a Working Session for Review of Maps of the Butte Regional HCP/NCCP Planning Area will be announced shortly.