



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

April 5, 2007

Lori Rinek
Division Chief
U.S. Fish and Wildlife Office
2800 Cottage Way, Room W-2605
Sacramento, CA 95825

John Kopchik
Principal Planner
Contra Costa County
651 Pine St., 4th Floor NW
Martinez, CA 94553

Subject: Final Environmental Impact Statement/Environmental Impact Report
(DEIS/EIR) for the East Contra Costa County Habitat Conservation Plan and
Natural Community Conservation Plan, Contra Costa County, California
(CEQ #20070074)

Dear Ms. Rinek and Mr. Kopchik:

The U.S. Environmental Protection Agency (EPA) has reviewed the above-referenced document pursuant to the National Environmental Policy Act (NEPA), Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500-1508), and our NEPA review authority under Section 309 of the Clean Air Act.

EPA reviewed the Draft Environmental Impact Statement (DEIS) and provided comments to the U.S. Fish and Wildlife Service (USFWS) on December 1, 2005. We rated the DEIS as Environmental Concerns - Insufficient Information (EC-2) because of concerns regarding the uncertainties of preserve land acquisition in areas with conflicting General Plan zoning or in nonparticipating jurisdictions, especially as it concerns the San Joaquin Kit Fox.

The newly designated urban limit line (ULL) in the City of Antioch further stresses the ability to obtain preserve land adequate for Kit Fox habitat corridors, thus we remain concerned for this species. The conservation strategy has been changed in response to the new ULL and the Response to Comments states that if no areas are acquired in the medium and high potential compatibility conflict areas, the conservation strategy would need to be substantially revised, in particular as regards the effects on the San Joaquin kit fox and several covered plants (p. 2-134). We understand that the HCP contains such mechanisms for revision. We also understand that any authorizations for individual permitting outside the HCP will attempt to conform to the HCP for high priority areas.

EPA's comments on the DEIS also recommended additional mitigation for the San Joaquin Kit Fox and Western Pond Turtle in the form of recreation exclusions in preserve areas with high habitat value for these disturbance-sensitive species. The FEIS response to comments states that designation of specific prohibition areas for the Kit Fox and Pond Turtle is premature and that our comment does not describe why the suggested mitigation is required (p. 2-138). We note that the Council on Environmental Quality (CEQ) directs federal agencies to identify "all relevant, reasonable mitigation measures that could improve the project" (CEQ's Forty Most Asked Questions, #19b). In addition, we now note that the HCP states "recreational use on HCP/NCCP preserves that support active kit fox home ranges will be prohibited or limited to avoid or minimize adverse impacts on the species" (HCP p. 4-15), which is consistent with our recommendation. The Record of Decision (ROD) should clarify what mitigation the agencies are committing to regarding recreational impacts to the Kit Fox on preserve land.

EPA appreciates the opportunity to review this FEIS. When the ROD is signed, please send one copy to the address above (mail code: CED-2). If you have any questions, please contact me or Karen Vitulano, the lead reviewer for this project. Karen can be reached at 415-947-4178 or vitulano.karen@epa.gov.

Sincerely,

/s/

Nova Blazej, Manager
Environmental Review Office