

BOARD OF SUPERVISORS

Yolo County, California

Date: January 29, 2013

To: Co. Counsel ✓
Auditor ✓

26.

9:00 a.m. - County Counsel

Hold public hearing to consider adoption of an ordinance establishing limited County regulation of certain habitat projects undertaken as mitigation for out-of-county impacts to biological resources. (No general fund impact) (Drivon/Pogledich)

Att. A. Proposed Ordinance

Minute Order No. 13-13: Approved recommended action by **Ordinance No.1426** with direction to staff to return at a future date with any suggested changes to enforcement provision.

MOVED BY: McGowan / SECONDED BY: Provenza
AYES: McGowan, Saylor, Rexroad, Provenza, Chamberlain
NOES: None
ABSTAIN: None
ABSENT: None



County of Yolo

www.yolocounty.org

To: Supervisor Duane Chamberlain, Chair
and Members of the Board of Supervisors

Time Set # **26.**

Board of Supervisors

Meeting Date: 01/29/2013

Brief Title: Public Hearing to Consider Adoption of Habitat Ordinance

From: Robyn Truitt Drivon, County Counsel

Staff Contact: Philip J. Pogledich, Senior Deputy

Information

Subject

9:00 a.m. - County Counsel

Hold public hearing to consider adoption of an ordinance establishing limited County regulation of certain habitat projects undertaken as mitigation for out-of-county impacts to biological resources. (No general fund impact) (Drivon/Pogledich)

Recommended Action

- A. Receive staff presentation regarding a proposed ordinance regulating certain habitat projects **(Attachment A)**;
- B. Hold a public hearing to receive input concerning the ordinance and any related issues; and
- C. Adopt the ordinance on the grounds described in its "Findings and Authority" and "Purposes" sections, and further find that adoption of the ordinance is exempt from the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Section 15307 (actions by regulatory agencies for protection of natural resources) and 15308 (actions by regulatory agencies for protection of the environment), as well as CEQA Guidelines Section 15061(b)(3) (the "common sense" exemption).

Strategic Plan Goal(s)

Collaborate to maximize success
Preserve and support agriculture
Protect open space and the environment

Reason for Recommended Action/Background

As the Board of Supervisors is well aware, for several years the County has tracked the development of the Bay Delta Conservation Plan ("BDCP") and related proposals to create, restore, or enhance wetland and similar habitats within the County. The County has pursued a dialogue on numerous fronts to ensure that its concerns—as well as those of its stakeholders—are understood and respected by the agencies involved in the planning process. To date, however, it is difficult to identify tangible progress toward this goal aside from the completion of funding agreements that assist the County in studying the environmental and economic implications of certain proposals.

This is cause for concern. While the completion of the BDCP remains some time away, the first major

wetland habitat project linked to the BDCP—a wetland creation project of about 1,400 acres on the Yolo Ranch (located at the far southern end of the Yolo Bypass)—could be constructed in Yolo County during the summer of 2013. Separately, pilot projects to evaluate the feasibility of a seasonal floodplain habitat project of up to 2,500 acres are now underway in the northern end of the Yolo Bypass, a short distance from the Fremont Weir. The County is also the site of several existing mitigation banks for Swainson’s hawk, valley elderberry longhorn beetle, and other species, and each bank has service areas extending far beyond the County’s boundaries. Despite this, developers continue to express interest in placing yet more land in Yolo County into easements to mitigate out-of county impacts to Swainson’s hawk foraging habitat and other resources.

Altogether, the use of local farmland and open space to serve the mitigation (and similar) needs of other jurisdictions represents a new paradigm rather than merely a passing trend. The proposed ordinance seeks to give the County a formal role in the review, approval and implementation of such projects. It is the culmination of a lengthy effort that has included a dozen public workshops, hearings, and presentations over the past four years. If adopted, the ordinance would establish a use permit requirement affording the County limited regulatory control over habitat projects undertaken in connection with activities impacting biological resources outside of the County. On these grounds, this office recommends adoption of the Ordinance.

1. General Background.

As mentioned, Yolo County is increasingly seen as the appropriate place to mitigate for impacts to habitats and species many miles away, far from its own geographic boundaries. These projects are, at least in part, the extraterritorial consequences of the development and land use decisions of other jurisdictions and agencies. Put simply, while those jurisdictions and agencies have approved development that advances their own fiscal and other aims, the environmental impacts of those decisions are increasing being mitigated in Yolo County and other distant locations with an abundance of farmland and open space. This approach facilitates the development of some areas while restricting land uses and activities—and impacting the existing habitat values of farmland and open space—in other places such as Yolo County. And of course, the County does not share in the increased property and sales tax revenues of the out-of-county jurisdictions whose projects are mitigated in Yolo County.

Recognizing these facts is part of determining the proper role for the County with regard to habitat projects. It is a reflection of why out-of-county mitigation is occurring here in Yolo County and why it will continue to occur. Presently, habitat projects are not comprehensively addressed in the General Plan or provisions of the Yolo County Code. The County thus has few tools for controlling the location or other aspects of the development of such projects.

Such projects, however, can raise a number of concerns that have previously been discussed at length on a number of occasions and are not repeated in detail here. Briefly however, those concerns include:

- The conversion of productive farmland;
- Adverse economic effects on the agricultural industry, potentially including the loss of jobs, closure of related facilities and businesses, and increased costs associated with transporting commodities to distant locations for processing;
- Increased restrictions on pesticide and herbicide use and other restrictions on agricultural practices;
- Adverse impacts on existing habitat for the migratory waterfowl, Swainson’s hawk and other species, including rare plants, as well as potential conflicts with the developing Yolo Natural Heritage Program; and
- Within the Yolo Bypass, potential impacts on the flood protection function of the facility and the operation of the Yolo Bypass Wildlife Area.

These are important issues that ought to be considered and addressed as part of any mitigation bank established to facilitate out-of-county mitigation, as well as the BDCP and related habitat projects. Federal and state agencies with responsibility for overseeing these projects and could, in

theory, protect local interests at least as effectively as the County through its own regulatory efforts. After considerable effort by County staff and members of the Board over the course of several years, however, it is not clear that these agencies can be counted on to protect the interests of the County.

Consequently, it is appropriate for the Board of Supervisors to decide whether the County should exercise its authority to independently regulate certain habitat projects. The proposed ordinance offers a means of establishing such a regulatory role. While there may be limits on its application--for example, projects undertaken directly by the state or federal government are likely beyond the County's regulatory reach--it will nonetheless afford the County an appropriate oversight role for many "out-of-county" mitigation projects.

2. Development of the Proposed Ordinance.

Potential County regulation of certain habitat projects has previously been the subject of considerable discussion by the Board of Supervisors, the Planning Commission, and various County departments. A brief chronology of these matters is as follows:

- **October 28, 2008.** The Board of Supervisors received a report from County staff regarding anticipated wetland habitat projects and potential regulatory options. At the end of that discussion, the Board asked this office to further consider the appropriate role of the County with regard to such projects, including whether to adopt an ordinance providing for limited County regulation thereof, and conduct related public outreach.
- **May 14, 2009.** The Planning Commission received a report from this office on the potential development of an ordinance regulating wetland habitat projects.
- **May 27 and June 25, 2009.** This office convened a "stakeholder group" with about 20 participants to discuss the appropriate regulatory role of the County and to review a preliminary draft of an ordinance establishing a use permit requirement.
- **July 9, 2009.** The Planning Commission held a public hearing on a draft ordinance establishing a use permit requirement for certain habitat projects and recommended that the Board of Supervisors adopt the ordinance with certain changes.
- **September 15, 2009.** The Board of Supervisors held a public workshop on the draft ordinance considered by the Planning Commission on July 9, 2009 (as revised to incorporate Planning Commission direction). At the conclusion of the workshop, the Board of Supervisors directed staff to make certain changes to the ordinance and return for a further public hearing at a future Board meeting.
- **November 12, 2009.** The Planning Commission held a public hearing to consider a revised version of the ordinance and a companion ordinance establishing a non-binding County review process for certain projects. The Planning Commission recommended adoption of both ordinances by the Board of Supervisors.
- **September 28, 2010.** The Board of Supervisors received a presentation on the current status of the BDCP, the County's efforts to participate in the planning process, options for County regulation of certain habitat projects (including the November 12, 2009 draft of the use permit ordinance), and various related matters. The Board directed staff to set a public hearing on October 12, 2010 to consider adoption of a moratorium on "out of county" mitigation and related projects.
- **October 12 and November 9, 2010.** The Board of Supervisors held public hearings to consider adopting (on October 12) and extending (on November 9) a moratorium on "out of county" mitigation and related projects. The moratorium expired after two years, on October 12, 2012.
- **October 23, 2012.** The Board of Supervisors received a presentation regarding the expiration of the moratorium and options for proceeding with a use permit ordinance. It directed staff to revise the November 12, 2009 draft of the use permit ordinance, present the revised draft to the Planning Commission for consideration, and then return to the Board of Supervisors.[\[1\]](#)

- **November 8, 2012.** The Planning Commission held a public hearing to consider a recommendation on a revised draft of the use permit ordinance. At the conclusion of the hearing, it recommended that the Board of Supervisors approved the revised ordinance with the addition of (a) language requiring an economic impacts analysis for projects of 40 acres or more (reduced from 160 in the draft ordinance), and (b) language requiring staff to maintain a map of projects approved pursuant to the ordinance.

The public hearing set for January 26, 2013, will thus be the thirteenth public discussion since late-2008 of "out-of-county" mitigation and other issues concerning the County's appropriate regulatory role.

3. Key Features of the Proposed Ordinance.

In most respects, the proposed ordinance is similar to the November 12, 2009 draft presented to the Board of Supervisors on September 28, 2010, and on various occasions thereafter. Some key features of the proposed ordinance are as follows:

- **Discretionary permit approval.** The proposed ordinance requires a use permit for certain habitat projects undertaken as "out-of-county mitigation," as reflected in the definition of "covered habitat mitigation project" set forth therein. This term is defined broadly to encompass all mitigation banks with out-of-county service areas (i.e., having credits available for projects beyond Yolo County's boundaries), as well as projects undertaken in connection with the BDCP and the biological opinions.
- **Limited exemptions.** The ordinance exempts several types of projects, including: projects that are relatively modest in size (e.g., restoration, enhancement, and preservation projects of less than 40 acres); projects consisting primarily of the restoration of riparian, vernal pool, and other rare habitat types that are unlikely to involve significant acreage; limited term pilot projects that will not substantially interfere with the reasonable agricultural use of the project site or adversely affect nearby lands; and projects that otherwise are unlikely to have a significant environmental impact. [2] It also includes a list of activities that are entirely excluded from the ordinance, including agricultural activities, projects undertaken for flood control, and the winter flooding of agricultural fields for the primary purpose of creating seasonal habitat for migratory waterfowl.

Many of the exemptions and exclusions have been streamlined (in comparison with the November 12, 2009 draft) to eliminate language authorizing formal consultation with the Agricultural Commissioner regarding individual projects and activities. This office has concluded that such language is unnecessary, as consultation can occur without specific authorizing text.

- **Application contents and processing.** The ordinance identifies the documents that will constitute a complete application, leaving some room for flexibility depending on the characteristics of a particular project. Importantly, the ordinance requires the applicant to provide a proposed management plan that identifies how vector control issues will be addressed, how the project will be responsibly managed over time, and how crop depredation may be addressed to the extent it is a foreseeable consequence of the proposal.
- **Coordination with other agencies.** Copies of all related project applications to federal, state, and other local agencies are required so that the County can coordinate with those entities and minimize delays and the duplication of work. The ordinance also requires all permit applications to be referred to the Executive Director of the Yolo Natural Heritage Program to ensure coordination with the developing HCP/NCCP.
- **Deciding authority.** The Zoning Administrator will be the "deciding authority" for projects under 40 acres, as with other minor use permits. The Planning Commission will be the deciding authority for projects between 40 and 159 acres, as with other major use permits. For projects of 160 or more acres, and for projects of a smaller size that do not meet the "automatic" approval criteria mentioned below, the Board of Supervisors will be the deciding authority.

- **Permit approval criteria.** The ordinance identifies nine criteria that, if satisfied, assure discretionary approval of a use permit. Most of the criteria are closely related to the results of environmental review under CEQA, consistency with the Williamson Act, and the avoidance of significant environmental and economic effects. If any criteria are not satisfied, the application is referred to the Board of Supervisors for consideration. The Board may approve any referred permit if it finds that doing so is consistent with the purposes of the ordinance.
- **Periodic review.** Like a handful of other County ordinances, this ordinance includes a provision that commits the Board of Supervisors to review the effectiveness of the ordinance at certain intervals (i.e., every five years).

In most respects, these features of the proposed ordinance differ little from the version reviewed by the Board on September 28, 2010. The most notable differences appear in the permit approval criteria (pp. 12-13 of the proposed ordinance). One difference has already been noted—as recommended by the Planning Commission on November 12, 2012, the proposed ordinance now requires an economic impacts analysis for projects of 40 or more acres (rather than 160 or more acres). Projects that may cause significant adverse economic effects within the County or the region must be referred to the Board of Supervisors for consideration.

Further, two new permit approval criteria have also been added to the draft presented in 2010. First, for a project undertaken in furtherance of the “coequal goals” described in the Delta Reform Act, the deciding authority must consider whether the project is consistent with statutory language directing that the coequal goals “of providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem” are to be achieved in a manner that “protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place.” Second, projects that convert farmland to habitat must mitigate the loss of agricultural resources in accordance with the Yolo County Agricultural Conservation Easement Program (Yolo County Code Section 8-2.2416). Alternatively, in the discretion of the Board of Supervisors, an applicant may provide an alternative, equally effective approach to addressing such conversions. [\[3\]](#)

4. Other Considerations.

Adoption of the proposed ordinance may constitute a “project” under CEQA and, consequently, it is necessary the appropriate level of environmental review. This office believes that adoption of the ordinance is within the scope of at least three exemptions:

- **CEQA Guidelines Section 15307:** This exemption applies to actions by regulatory agencies for protection of natural resources, including actions that “assure the maintenance, restoration, or enhancement of a natural resource where the regulatory process involves procedures for protection of the environment.” The proposed ordinance does precisely what Section 15307 requires. It creates a discretionary approval process that requires careful consideration of impacts on natural resources, as evidenced by its provisions relating to the contents of permit applications and, in addition, certain permit approval criteria. The ordinance will thus help maintain existing resource values and protect the overall environment.
- **CEQA Guidelines Section 15308:** This exemption applies to actions by regulatory agencies for protection of the environment, including actions that “assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment.” It is thus virtually identical to Section 15307 and applies to adoption of the ordinance for the same reasons.
- **CEQA Guidelines Section 15061(b)(3):** This is often referred to as the “common sense” or general rule exemption, which applies where it can be seen with certainty that there is no possibility that a project may have a significant effect on the environment. This exemption applies for the same reasons that the exemptions in Sections 15307 and 15308 apply. Put simply, the proposed ordinance provides for limited regulation of certain types of habitat projects. This discretionary approval process will ensure that CEQA review is performed on covered habitat mitigation projects and that, where applicable, the effects of those projects are mitigated in accordance with state and

local laws and polices. This approach will ensure the protection of existing biological resources and other aspects of the environment as such projects are implemented.

Finally, the proposed ordinance has been prepared in accordance with the General Plan. It is consistent with all relevant General Plan polices embracing the subjects that it covers. This includes policies in the Land Use and Community Character Element, [4] the Conservation and Open Space Element, [5] and the Agriculture and Economic Development Element. [6] On this basis, the proposed ordinance includes a statement affirming its consistency with the General Plan.

[1] The return date was set for December 4, 2012. However, in response to a request from the State and Federal Contractors Water Agency ("SFCWA") for additional time to prepare comments on the draft ordinance, the public hearing was scheduled for January 26, 2013. As of the date of preparation of this Board letter, SFCWA has determined that it will not comment on the draft ordinance.

[2] Given the broad definition of "covered habitat mitigation projects" included in the proposed ordinance, the exemptions should be construed narrowly and in line with the ordinary and usual understanding of terms included therein. For example, the exemption for riparian habitat restoration could conceivably be read as exempting the creation of vast tracts of riparian wetlands encompassing thousands of acres. Typically, however, riparian restoration consists of restoring a narrow swath of vegetation along stream banks and related activities affecting only small corridors along waterways. The exemption for riparian restoration should be construed accordingly.

[3] This approach does not affect the application of Yolo County Code Section 8-2.2416 to habitat conversions that are outside the scope of the proposed ordinance.

[4] E.g., Land Use and Community Character Policies LU 2.5, LU 3.6, LU 4.2, and CC 4.12.

[5] E.g., Conservation and Open Space Policies CO 1.15 through 1.18, CO 2.2 through 2.6, CO 2.14 through 2.16, CO 2.20 and 2.21, CO 2.24 and 2.25, CO 2.27 and 2.28, CO 2.31, CO 2.36, CO 5.8, CO 9.4, CO 9.12, CO 9.18, CO 9.21, and CO 9.23 and 9.24.

[6] E.g., Policy AG 1.1, AG 1.4, AG 2.9 through 2.12, AG 2.15, and ED 4.4.

Other Agency Involvement

Over the past four years, many other County departments—including the County Administrator's office, the Agricultural Commissioner, and the Planning and Public Works Department—have participated in discussions regarding potential County regulation of habitat projects. Each has provided input that is reflected in the content of this Board letter and the draft ordinance attached hereto.

Fiscal Impact

	No Fiscal Impact
Fiscal Impact (Expenditure)	
Total cost of recommended action:	\$
Amount budgeted for expenditure:	\$
Additional expenditure authority needed:	\$
On-going commitment (annual cost):	\$

Source of Funds for this Expenditure

General Fund	\$0
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Attachments

Att. A. Proposed Ordinance

Form Review

Inbox

Phil Pogledich (Originator)
Robyn Drivon
Ivan Vonk
Form Started By: Phil Pogledich
Final Approval Date: 01/24/2013

Reviewed By

Phil Pogledich
Robyn Drivon
Ivan Vonk

Date

01/23/2013 04:21 PM
01/23/2013 04:48 PM
01/24/2013 07:49 AM
Started On: 01/17/2013 01:22 PM

JAN 30 2013

ORDINANCE NO. 1426

BY Rupita Ramirez
DEPUTY CLERK OF THE BOARD**An Ordinance Regulating Habitat Mitigation Projects**

The Yolo County Board of Supervisors hereby ordains as follows:

Section One. Findings and Authority.

A. The unincorporated area is increasingly becoming the subject of mitigation projects and similar efforts that arise in connection with impacts to biological resources occurring largely or entirely outside of the County. Such projects include mitigation banks as well as habitat projects associated with the Bay Delta Conservation Plan ("BDCP") and the federal biological opinions for Delta smelt, salmonids, and other aquatic species. Other forms of "out of county" mitigation—for example, the direct purchase of a fee or easement interest by a public or private entity to discharge an existing or anticipated mitigation obligation associated with an out-of-county project—are expected to be proposed in the County in the foreseeable future.

B. The conversion of local farmland to habitat or to less productive agricultural uses is a likely consequence of some proposals included in draft elements of the BDCP. For example, the draft BDCP includes a conservation measure that proposes an array of changes within the Yolo Bypass to provide benefits to aquatic species, including the enhancement of seasonal floodplain habitat. The extent of such conversions as part of the BDCP (and other projects, such as mitigation banks) could greatly impact the local agricultural economy in many ways. Habitat conversions can also alter drainage patterns and otherwise impact neighboring properties and land uses. These are just a handful of the potential effects of a large-scale conversion of local farmland to habitat or less productive agricultural uses.

C. Existing habitat for various species could also be significantly impacted by such projects. This includes habitat for species protected under state and federal endangered species laws, such as the Swainson's hawk and giant garter snake, and habitat for migratory waterfowl. These existing habitats are directly threatened by actions and measures included within the BDCP and the federal biological opinions, as well as related projects that may proceed in advance of the completion of the BDCP and even unrelated projects occurring in connection with conventional development in other jurisdictions.

D. The projects covered by this ordinance are likely to create a number of additional land use conflicts and challenges within the County. For example, large-scale projects within the Yolo Bypass—particularly those that could disrupt existing agricultural practices and introduce new vegetation or erosion—could compromise the flood protection function of that facility and complicate efforts to maintain and restore its conveyance capacity. Out of county mitigation projects could also reduce the assessed value of affected lands, diminishing local property tax revenues and further jeopardizing the County's ability to provide basic services to its constituents. Many other policy concerns have also been documented in the Board letters presented by County staff to the Board of Supervisors in connection with prior discussions of this topic.

E. In many ways, the foregoing concerns are somewhat unique to the out of county mitigation projects that are the focus of this Ordinance. The internal mitigation needs of the County, the cities of Davis, Woodland, West Sacramento and Winters, and other local agencies are relatively modest by comparison. Such mitigation needs also pose far less risk of a significant conversion of farmland for reasons explained in the Board letter prepared in connection with the moratorium adopted on October 12, 2010. The County also has substantial input into how local mitigation needs are addressed in the unincorporated area. Finally, out of county mitigation is also unique in that mitigation banks and other forms of such mitigation facilitate urban development of some areas while restricting land uses and activities—and impacting the existing habitat values of farmland and open space—in other places such as Yolo County. Yet while jurisdictions approving such development receive additional tax revenues and other benefits, the jurisdictions hosting related habitat mitigation projects typically receive no such benefits. This furnishes yet another example of how extraterritorial mitigation differs from local or “in-county” mitigation.

F. Additional detail on these matters, is included in Board letters dated October 28, 2008, September 15, 2009, September 28, 2010, October 12, 2010, November 9, 2010, October 23, 2012, and January 29, 2013, all of which shall be considered part of the record of this item. The Board of Supervisors hereby incorporates that material by reference herein as support for the foregoing findings. The Board of Supervisors further finds that this Ordinance is consistent with the General Plan and exempt from CEQA on the grounds described in the January 29, 2013 Board letter.

Section Two. Definitions. The following definitions shall be added to Title 8, Chapter 2, of the Yolo County Code, with appropriate section numbering added at the time of codification:

Sec. 8-2.____. Covered Habitat Mitigation Project.

A “covered habitat mitigation project” is any mitigation bank or other project within the County that is undertaken to mitigate impacts to biological resources occurring largely or entirely outside of the County. A “covered habitat mitigation project” also includes all other habitat restoration, creation, enhancement, or preservation activities (including the sale of a conservation easement or interest therein) carried out within the County in connection with projects or other actions impacting biological resources in locations outside of the County. This includes, among other things, any such project that implements actions described in a Habitat Conservation Plan/Natural Communities Conservation Plan or in a biological opinion issued by the United States Fish and Wildlife Service or other federal agency. This term is to be interpreted broadly, consistent with the intent of this ordinance, to include all projects, plans, and activities that are substantially similar to any of the foregoing, regardless of whether they are specifically described herein.

Section Three. Minor Use Permit Required. A minor use permit, as that term is defined in Yolo County Code Section 8-2.270.9, shall be required for any covered habitat mitigation project of less than 40 acres. Accordingly, the following sections of the Yolo County

Code shall be amended to include this requirement by adding an appropriately-lettered subsection followed by the words “Covered habitat mitigation projects, as defined in Yolo County Code Section 8-2.____, of less than 40 acres. Such projects are subject to Title 10, Chapter 10 of this Code”:

- Section 8-2.404 (Agricultural Preserve)
- Section 8-2.504 (Agricultural Exclusive)
- Section 8-2.604 (Agricultural General)
- Section 8-2.614 (Agricultural Industry)
- Section 8-2.1914 (Public Open Space)
- Section 8-2.1922 (Open Space)

Section Four. Major Use Permit Required. A major use permit, as that term is defined in Yolo County Code Section 8-2.270.3, shall be required for any covered habitat mitigation project of 40 or more acres. Accordingly, the following sections of the Yolo County Code shall be amended to include this requirement by adding an appropriately-lettered subsection followed by the words “Covered habitat mitigation projects, as defined in Yolo County Code Section 8-2.____, of 40 or more acres. Such projects are subject to Title 10, Chapter 10 of this Code”:

- Section 8-2.404.5 (Agricultural Preserve)
- Section 8-2.504.5 (Agricultural Exclusive)
- Section 8-2.604.5 (Agricultural General)

In addition, the following sections shall be added to the Yolo County Code, shall be entitled “Major Use Permit,” and shall identify “Covered habitat mitigation projects, as defined in Yolo County Code Section 8-2.____, of 40 or more acres as a major conditional use in subsection (a) or (b) thereof, as appropriate:

- Section 8-2.614.5 (Agricultural Industry)
- Section 8-2.1914.5 (Public Open Space)
- Section 8-2.1922.5 (Open Space)

Each subsection shall state that such projects are subject to Title 10, Chapter 10 of this Code.

Section Five. Addition of Chapter 10 to Title 10 of the Yolo County Code. The following Chapter is added to Title 10 of the Yolo County Code:

Chapter 10. Habitat Mitigation Ordinance

Article 1. Title and Purposes.

Sec. 10-10.101. Title.

This Chapter shall be known as the “Habitat Mitigation Ordinance” of the County.

Sec. 10-10.102. Purposes.

The County's land use planning efforts have consistently anticipated that local landowners—often in conjunction with assistance from non-profits and state agencies—will voluntarily undertake a modest amount of habitat creation, restoration, enhancement, and preservation actions. Similarly, the County has long coordinated urban development and related land use planning matters with the incorporated cities of Woodland, Davis, Winters, and West Sacramento. Projects within these jurisdictions have occasionally impacted biological resources, and the County intends to continue to accommodate the preservation of land in the unincorporated area as compensatory mitigation for such local habitat impacts.

In the foreseeable future, however, the County expects that the unincorporated area will increasingly be the subject of mitigation projects and similar efforts that arise in connection with impacts to biological resources occurring largely or entirely outside the geographic boundaries of the County. Such projects include mitigation banks with service areas extending far beyond the County—of which there are already a number—as well as various other endeavors to create, restore, enhance, and preserve habitat as a consequence of projects and activities occurring in locations outside of the County. These projects are the focus of this Chapter, while other purely local preservation and mitigation efforts are generally outside of its scope.

This Chapter provides for limited County regulation of certain habitat projects taking place within the County in connection with projects and activities occurring largely or entirely outside of the County. Such projects are unique in many respects. For example, wetland habitat projects can provide important habitat areas for fish, wildlife, and plants. They can also help maintain and enhance water quality, facilitate groundwater recharge, mitigate flooding, and control erosion. Some wetland habitat projects can also provide educational, scientific study, and recreational opportunities. The same is true of other types of habitat projects undertaken as compensatory mitigation. For these and other reasons, such projects can thus be a significant asset to the environment and the general public so long as they adequately replace the habitat area, values, and functions lost due to urban development or other projects or activities.

Nonetheless, to assure these projects benefit the County and do not unduly interfere with its land use planning efforts or the eventual implementation of the Yolo Natural Heritage Program, careful planning is necessary. Attention to matters of location, design, construction, and long-term monitoring and management is essential. Particularly for larger projects, early consideration of ways to integrate appropriate educational, recreational, scientific, and other opportunities is also desirable. Finally, the potential local and regional environmental and economic impacts of habitat projects—such as the conversion of farmland and existing species habitat, as well as conflicts with surrounding land uses and activities—deserves close attention and consideration. It is for these reasons that the Delta Reform Act of 2009 states that the goals of “providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem” are to be achieved in a manner “that protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place.”

Accordingly, this Chapter is intended to promote the foregoing objectives and to achieve the following purposes:

- (a) To help ensure that out of county mitigation projects are located, constructed, and managed in a manner that is consistent with the General Plan and the developing Yolo Natural Heritage Program, compatible with surrounding land uses to the extent feasible, and sensitive to the need for a strong local economy, the protection of existing biological resources, flood protection, vector control, and other appropriate local and regional concerns.
- (b) To encourage the proponents of such habitat projects—particularly large out of county mitigation projects—to design and implement projects that achieve multiple environmental and community objectives, and that include management plans or similar means of ensuring the responsible stewardship of such projects over time.
- (c) To ensure that habitat projects undertaken in furtherance of the "coequal goals" and the habitat restoration objectives of the Delta Reform Act proceed in a manner that is faithful to the Act in its entirety, including its basic policy direction that the coequal goals of “providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem” are to be achieved in a manner “that protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place.”
- (d) To expand opportunities for the County and interested citizens to participate in the process of reviewing such habitat projects by establishing a permitting process that includes public hearing requirements and other opportunities for public input.
- (e) To continue to encourage wildlife-friendly agricultural practices and voluntary habitat restoration and preservation efforts, and to continue to accommodate other habitat projects undertaken in connection with impacts to biological resources arising from local projects and actions.

Nothing in this Chapter is intended to restrict or in any way affect or impair the agricultural use of land within the County. In some cases, state and federal laws may regulate certain types or characteristics of projects covered by this Chapter. This Chapter shall be construed to provide the County with the maximum control consistent with such other laws.

Article 2. Definitions

For the purposes of this Chapter, the following terms shall have the meanings stated below:

Sec. 10-10.201. Agriculture or Agricultural.

“Agriculture” or “agricultural” shall have the meaning set forth in Yolo County Code Section 8-2.208.

Sec. 10-10.202. Applicant.

“Applicant” shall mean a person who files an application for a permit under this Chapter and who is either the owner of the site, a vendee of that person pursuant to a contract of sale for the site, or an authorized agent for either of those persons.

Sec. 10-10.203. Covered Habitat Mitigation Project

A “covered habitat mitigation project” is any project within the scope that term as it is defined in Title 8, Chapter 2 of the Yolo County Code.

Sec. 10-10.204. Create or Creation.

“Create” or “creation,” in the context of a habitat project, shall mean to construct or otherwise introduce new habitat area, functions, and values by excavating, flooding, or otherwise altering land not currently or historically occupied by such habitat.

Sec. 10-10.205. Deciding Authority.

“Deciding Authority” shall mean the public official(s) or County employee with authority to decide an application for a permit under this Chapter.

Sec. 10-10.206. Director.

“Director” shall mean the Director of the Planning and Public Works Department, or his or her designee or successor in function.

Sec. 10-10.207. Enhance or Enhancement.

“Enhance” or “enhancement,” in the context of a habitat project, shall mean to rehabilitate a degraded or disturbed natural habitat area to bring back one or more functions or values that have been partially or completely lost due to natural causes or actions such as draining, grading, or other land uses and activities. Any project that changes the function or values of an existing habitat type so that it more closely resembles the natural (i.e., prior to disturbance by human activities) condition of a site shall be considered a habitat enhancement project for the purposes of this Ordinance.

Sec. 10-10.208. General Plan.

“General Plan” shall mean the adopted General Plan of Yolo County, as may be amended from time to time.

Sec. 10-10.209. Grading.

“Grading” shall have the same meaning as in Appendix J of the California Building Code, 2007 edition, as may be amended from time to time.

Sec. 10-10.210. Habitat.

“Habitat” shall mean the environmental factors that support one or more plant or wildlife species at a particular place or region, providing food, water, cover, and space needed for survival and reproduction.

Sec. 10-10.211. Person.

“Person” shall mean an individual, firm, partnership, corporation, or local agency (as defined in Government Code Section 53090), their successors or assigns, or the agent of any of the foregoing, and shall include any applicant or permit holder under this Chapter.

Sec. 10-10.212. Preserve or Preservation.

“Preserve” or “preservation” means the permanent protection of ecologically important habitat resources through the implementation of appropriate legal and physical mechanisms, including but not limited to conservation easements.

Sec. 10-10.213. Project.

“Project” shall mean the whole of any activity or activities undertaken in connection with creating, enhancing, restoring, or preserving habitat on a site, and shall be interpreted broadly to include all related activities. This includes, by way of example only and without limitation, activities such as pilot projects, conservation easement transactions, grading, tree or vegetation removal, and the creation, restoration, or enhancement of associated buffer areas.

Sec. 10-10.214. Restore or Restoration.

“Restore” or “restoration,” in the context of a habitat project, shall mean to restore lost habitat area, generally by excavating, flooding, and otherwise manipulating the physical, chemical, or biological characteristics of a site with the goal of reestablishing the natural or historic habitat values and functions of that area.

Sec. 10-10.215. Site.

“Site” shall mean all areas of real property that are within the boundaries of a proposed project, and may include more than one legal parcel.

Sec. 10-10.216. Substantial Evidence.

“Substantial evidence” includes facts, a reasonable assumption predicated upon facts, or expert opinion supported by facts. Substantial evidence is not argument, speculation, unsubstantiated opinion or narrative, or evidence that is clearly inaccurate or erroneous.

Article 3. Permits

Sec. 10-10.301. Permit Requirement; Exemptions and Excluded Activities.

- (a) *Generally.* Subject to the exemptions set forth below, no person shall engage in grading, clearing, or other activities, including the recordation of a conservation easement, with the intent to implement a covered habitat mitigation project without first applying for and receiving a use permit under this Chapter, together with any other approvals required by federal, state, or local law.
- (b) *Advisory Determination Regarding Coverage.* A prospective project applicant may seek a pre-application consultation regarding the need for a use permit under this Chapter or other potential County approvals. This consultation may be initiated by contacting the Planning and Public Works Department.
- (c) *Exemptions.* The following projects shall be exempt from the use permit requirement and the other provisions of this Chapter:
 - (i) All covered habitat mitigation projects that do not create 10 or more acres of habitat.
 - (ii) All covered habitat mitigation projects that do not enhance, restore, or preserve 40 or more acres of habitat. This exemption may not be combined with the exemption in subsection (a), above, to exempt any covered habitat mitigation project that creates, enhances, restores, or preserves 40 or more acres of habitat.
 - (iii) Covered habitat mitigation projects that create, enhance, restore, or preserve riparian, oak woodland, vernal pool, or native grassland/prairie habitats, unless any such project also includes one or more other habitat types that exceed the acreage limits set forth in subsections (a) or (b), above. The proponent of any project that qualifies for this exemption shall provide notice to the County of the proposed project before commencing construction or other activities in furtherance of the project.
 - (iv) Any covered habitat mitigation project that received all necessary County approvals prior to the effective date of this Chapter, or for which a complete application for such approval(s) was submitted prior to effective date (for projects of less than 160 acres only) of Yolo County Ordinance No. 1401, which established a moratorium on certain types of habitat projects.
 - (v) Any covered habitat mitigation project(s) undertaken by a person that entered into a Memorandum of Understanding or similar written agreement with the County addressing the implementation of such project(s) during the term of Yolo County Ordinance No. 1401 (including the term extension approved pursuant to Ordinance No. 1402), which established a moratorium on certain types of habitat projects. This

exemption shall be limited in scope to the project and/or other activities specifically described in the Memorandum of Understanding.

- (vi) Limited term pilot projects undertaken for scientific research and related purposes, including feasibility assessments, in connection with the potential future implementation of a covered habitat mitigation project. Such projects are not covered by this Chapter so long as they occur in a time and manner that does not substantially interfere with the reasonable agricultural use of the pilot project site or adversely affect surrounding lands.
- (vii) Activities that require discretionary approval pursuant to Chapters 3, 4, or 5 of this Title 10.

Notwithstanding the foregoing, any expansion or other change to a covered habitat mitigation project previously covered by one or more of these exemptions shall require a use permit if the proposed expansion or other change would remove the project, viewed as a whole, from the scope of these exemptions.

- (d) *Activities Not Covered.* The following activities do not constitute covered habitat mitigation projects and are not subject to regulation under this Chapter so long as they are undertaken in the usual and customary manner prevailing in the County at the time this Chapter was adopted:
 - (i) All activities undertaken in connection with, and in furtherance of, the agricultural use of land. This includes, but is not limited to, the construction and maintenance of stock ponds and small reservoirs, tail-water ponds, irrigation canals and sloughs, rice fields, and similar activities.
 - (ii) Projects undertaken for the primary purpose of flood control, flood protection, or related matters of flood safety and the protection of life and property.
 - (iii) The winter flooding of agricultural fields for the primary purpose of providing temporary habitat for migratory waterfowl, provided such flooding does not occur in a time or manner that prevents or substantially interferes with the reasonable agricultural use of the site or adversely affect surrounding lands.

Sec. 10-10.302. Permit Contents, Processing, and Decisions

- (a) *Applications, generally.* Applications for a use permit under this Chapter shall be submitted to the Director, together with payment of all application fees established by the Board of Supervisors. Except as otherwise provided in this Chapter, all provisions of the Yolo County Code relating generally to use permits shall apply to the review, issuance, and amendment or revocation of permits covered hereunder.

- (b) *Application contents.* An application for a use permit shall include all of the following:
- (i) A completed application for a permit under this Chapter, on a form provided by the County, together with payment of the application fee established by resolution of the Board of Supervisors.
 - (ii) Completed applications for any other required County approvals, such as a grading permit or Flood Hazard Development Permit, together with payment of the application fee(s) established by resolution of the Board of Supervisors. In addition, both with the initial application and thereafter, the applicant shall provide copies of all completed applications for other federal, state, and local approvals associated with the proposed project to facilitate coordination between the County and other agencies.
 - (iii) Appropriate site-specific technical reports, including but not limited to such documents as a biological resources analysis, a hydrology analysis, a geotechnical analysis, and an engineered excavation plan. The types of reports that may be required should be uniform for applications that are similar in nature, but may vary to the extent that the features of a proposed project or the characteristics of the project site and surrounding lands are unique. Upon request, the Director will advise an applicant of the types of reports that should be submitted with a permit application or, in appropriate instances, in connection with environmental review of a proposed project or at other times as specified by the Director in his or her sole discretion. In some instances, the applicant may be able to satisfy this requirement by providing documents prepared in connection with applications to other federal, state, or local agencies relating to the project.
 - (iv) A site plan showing property lines, assessor's parcel numbers, onsite and adjoining land uses, topography, access, and existing/proposed patterns of vegetation.
 - (v) A proposed management plan that identifies how the project will be operated and managed over time. Among other things, the plan should explain how the project will be actively operated and managed in perpetuity to ensure that its environmental and other benefits are realized on a continuous basis, how vector control issues will be addressed, if applicable, and how any unanticipated events and impacts to surrounding land uses will be addressed. The proposed management plan shall also include measures to address crop depredation to the extent it is a reasonably foreseeable consequence of the proposed project. The plan should also state whether the operation and management of the project will be supported by an endowment or other established source of funds.

In addition to the foregoing, the Director may require such other and further information relevant to the project as needed to perform appropriate

environmental analysis, to determine whether the proposal may affect public health, safety, and welfare, and for other good cause as determined by the Director in his or her sole discretion.

- (c) *Yolo Natural Heritage Program.* In addition to referrals to other County departments, as may be appropriate in the discretion of the Director, all permit applications shall be promptly referred to the Executive Director of the Yolo Natural Heritage Program. The referral shall include a request for comments regarding whether the application is consistent with the Habitat Conservation Plan/Natural Communities Conservation Plan (HCP/NCCP) or, prior to its adoption, other matters of consistency with the developing HCP/NCCP. The purpose of this provision is to encourage coordination between applicants and the Executive Director, who may also refer the application to his or her staff or to committees participating in the development of the HCP/NCCP.
- (d) *Deciding Authority.* The Deciding Authority for permit applications shall be as follows:
 - (i) For projects of less than 40 acres, the Zoning Administrator shall be the Deciding Authority.
 - (ii) For projects of between 40 and 159 acres, the Planning Commission shall be the Deciding Authority. For projects that are 160 or more acres, the Planning Commission shall act in an advisory capacity to the Board of Supervisors. Acting in such capacity, the Planning Commission shall hold at least one noticed public hearing on the project prior to making a recommendation to the Board of Supervisors. The recommendation of the Planning Commission shall be in writing and shall include a detailed statement of the grounds for the recommendation.
 - (iii) For projects that are 160 or more acres or that include a proposed alternative approach to addressing the conversion of farmland (as set forth in Section 10-10.303(h), below), the Board of Supervisors shall be the deciding authority. The Board of Supervisors shall hold at least one noticed public hearing on the project prior to making a final decision on the application.
- (d) *Decision.* After considering the application materials and, if applicable, the recommendations of County staff and the Planning Commission, the Deciding Authority shall issue, conditionally issue, or deny the application by a written decision supported by findings that address the criteria set forth in Section 10-10.303, below. Due to the unique nature of projects covered by this Chapter, the general conditions that typically apply to the review and approval or denial of a use permit, set forth in Yolo County Code Section 8-2.2804, shall not apply.
- (e) *Costs and expenses.* The applicant shall reimburse all costs and expenses reasonably incurred by the County in reviewing applications under this Chapter,

including but not limited to staff time and costs and expenses associated with environmental review. At the discretion of the Director, the applicant may be required to provide a reasonable deposit for such costs, enter into a reimbursement agreement with the County, or both.

Sec. 10-10.303. Decisionmaking Criteria

A permit applied for under this Chapter shall be approved if, taking all feasible mitigation measures, conditions of approval, and other relevant facts into account, the Deciding Authority makes all of the following determinations based on substantial evidence in the record:

- (a) That the project applicant has substantially complied with the requirements of this Chapter, including but not limited to provisions addressing the submission and contents of a management plan;
- (b) That the project would not significantly conflict with surrounding land uses;
- (c) That the project would not have a significant adverse effect on biological resources and, in addition, is not reasonably expected to significantly conflict with the Yolo Natural Heritage Program (HCP/NCCP);
- (d) That the project would not significantly compromise flood safety and the protection of life and property;
- (e) That the project would not have a significant adverse economic effect—either by itself or cumulatively—within the County or region. This factor shall only be considered for projects that convert 40 or more acres of farmland;
- (f) That the project, if undertaken in furtherance of the "co-equal goals" and the habitat restoration objectives of the Delta Reform Act, will proceed in a manner that is faithful to the Act in its entirety, including its basic policy direction that the coequal goals of "providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem" are to be achieved in a manner "that protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place";
- (g) If the project site is subject to a Williamson Act contract, that the project is an "open space use" under Government Code Section 51201(o) or that it would not otherwise cause a material breach of the contract. Any project that is an "open space" use under Section 51201(o) shall also require approval of an amended Williamson Act contract or other appropriate action to authorize the open space use;
- (g) That any conversion of farmland to habitat or other non-agricultural uses will be mitigated in accordance with Yolo County Code Section 8-2.2416 (notwithstanding anything to the contrary set forth therein regarding its application to habitat projects) or, subject to the approval of the Board of

Supervisors, that the applicant will implement an alternative approach to addressing the conversion of farmland that provides an equal or greater level of mitigation; and

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

Written findings addressing each of these matters shall be prepared in connection with a decision on a permit application.

If the Deciding Authority (other than the Board of Supervisors) finds that a project cannot be approved because one or more of these determinations cannot be made, the permit shall be referred to the Board of Supervisors for consideration at a noticed public hearing. The Board of Supervisors may approve a permit even if it finds that one or more of these determinations cannot be made, provided it finds that issuance of the permit is consistent with the purposes of this Chapter and all applicable provisions of local, state, and federal law. Any decision of the Board of Supervisors following its deliberation of these issues shall include written findings based on substantial evidence that address all of the criteria and other matters set forth above, together with an explanation of any decision to approve or deny a permit.

Sec. 10-10.304. Permit Term; Amendments

- (a) *Term.* The use authorized by a permit issued under this Chapter shall commence within one to five years, as may be appropriate taking all circumstances relating to the project into account. In particular, covered habitat mitigation projects that require numerous federal, state, and local agency approvals that can take a long time to acquire may warrant an initial permit term of up to five years, in the sole discretion of the Deciding Authority. Once the authorized use commences, a permit shall be perpetual in term unless otherwise indicated at the time of its original approval.
- (b) *Amendments, generally.* An amendment to an existing permit issued under this Chapter shall be required for any significant change to an approved covered habitat mitigation project. This shall include, but is not limited to, any change in the size or operation of an approved project that could have a significant effect on the environment. The Director shall have the discretion to determine whether an amendment to an existing permit is required.
- (c) *Applications for amendments; processing.* Applications for amendments to previously issued permits shall be submitted to the Director on forms provided by the County. An application to amend a previously issued permit shall also be accompanied by the appropriate fee, as established by resolution of the Board of Directors. In addition, the Director may require any or all of the additional information and documents described in Section 10-10.302(b), above, that may be reasonably necessary for consideration of the application. An application for an

amendment shall be handled in the same manner as an original permit application, as described in Section 10-10.302(b)-(e), above.

Article 4. Appeals

Sec. 10-10.401. Appeal Procedure

Any decision made pursuant to this Chapter may be appealed pursuant to Yolo County Code Section 8-2.3301, which shall apply to all appeals arising under this Chapter.

Article 5. Violations

Sec. 10-10.501. Generally

Any violation of this Chapter shall be subject to the administrative code enforcement ordinance of the County, set forth in Chapter 5 of Title 1 of the Yolo County Code.

Sec. 10-10.502. Public Nuisance

Any activity in violation of this Chapter or any permit issued hereunder shall be considered a public nuisance. In his or her sole discretion, the Director may take any action authorized by law to address the public nuisance, including but not limited to referral of the matter to the District attorney for civil or criminal action.

Article 6. Periodic Reviews; Mapping

Sec. 10-10.601 Initial Review

Five years after this Chapter becomes effective, the Board of Supervisors shall hold a public hearing for the purpose of considering its effectiveness at achieving the purposes set forth in Article 1 hereof. During such hearing, the Board of Supervisors may identify matters that require further consideration and provide appropriate direction to staff. In addition, the Board of Supervisors may direct staff to prepare an ordinance amending, superseding, or deleting this Chapter, and it may take such other actions as may be necessary and appropriate.

Sec. 10-10.602 Future Reviews

Every five years after the initial review under Section 10-10.601, above, the Board of Supervisors shall review this Chapter at a public hearing for the reasons described in that Section, particularly to ensure its continued effectiveness in achieving the purposes described in Article 1.

Sec. 10-10.603 Failure to Conduct Reviews

The failure to conduct a review in the time or manner required by this Article shall not affect the continuing validity of this Chapter, nor shall it have any effect on the status of a permit issued hereunder.

Sec. 10-10.604 Project Mapping

The Director shall maintain a map reflecting the location of each project approved pursuant to this Chapter. Other relevant information may also be included on the map, such as the location of preexisting mitigation banks, conservation easements, and other matters. The map shall be provided to the Deciding Authority in conjunction with each permit application presented for consideration. It shall also be provided to the Board of Supervisors as part of each periodic review.

Section Six. Severability.

If any section, subsection, sentence, clause or phrase of this Ordinance is held by court of competent jurisdiction to be invalid, such decision shall not affect the remaining portions of this ordinance. The Board of Supervisors hereby declares that it would have adopted this Ordinance and each section, sentence, clause or phrase thereof irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases be declared invalid.

Section Seven. Effective Date.

This Ordinance shall take effect and be in force thirty (30) days following its adoption and, prior to the expiration of fifteen (15) days after its adoption, it shall be published once in the Davis Enterprise, a newspaper of general circulation, printed and published in the County of Yolo, with the names of the Board members voting for and against the Ordinance.

PASSED AND ADOPTED by the Board of Supervisors of the County of Yolo, State of California, this 29th day of January, 2013, by the following vote:

AYES: **McGowan, Saylor, Rexroad, Provenza, Chamberlain.**

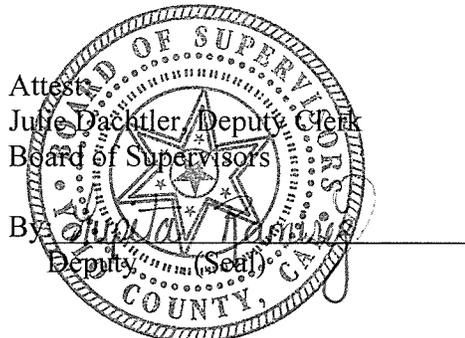
NOES: **None.**

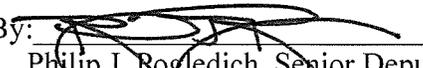
ABSENT: **None.**

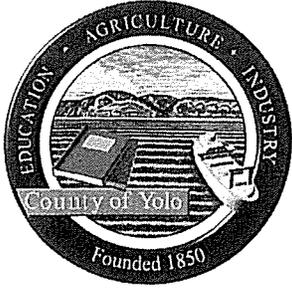
ABSTAIN: **None.**

By: 
Duane Chamberlain, Chairman
Yolo County Board of Supervisors

Approved as to Form:
Robyn Truitt Drivon, County Counsel



By: 
Philip J. Rogledich, Senior Deputy



COUNTY OF YOLO

Board of Supervisors

District 1, **Michael H. McGowan**
District 2, **Don Saylor**
District 3, **Matt Rexroad**
District 4, **Jim Provenza**
District 5, **Duane Chamberlain**

625 Court Street, Room 204 • Woodland, CA 95695
(530) 666-8195 • FAX (530) 666-8193
www.yolocounty.org

County Administrator, **Patrick S. Blacklock**
Deputy Clerk of the Board, **Julie Dachtler**

YOLO COUNTY BOARD OF SUPERVISORS NOTICE OF PUBLIC HEARING/SUMMARY OF ORDINANCE

NOTICE is hereby given that the Yolo County Board of Supervisors will be conducting a public hearing on Tuesday, January 29, 2013 at 9:00 a.m., or as soon thereafter as the matter may be heard, in the Chambers of the Board of Supervisors, Room 206, at the Erwin Meier Administration Center (625 Court Street, Woodland, CA), regarding potential adoption of an ordinance regulating habitat mitigation projects and related actions.

The proposed ordinance would establish a use permit requirement for certain types of habitat mitigation projects undertaken in the County. The ordinance focuses exclusively on habitat projects undertaken in connection with activities impacting habitat and biological resources located partly or entirely outside of the County. For such projects—defined in the ordinance as “covered habitat mitigation projects”—the ordinance establishes a use permit requirement that, depending on project size, is subject to approval by the Zoning Administrator, Planning Commission, or Board of Supervisors. Some of the other key features of the ordinance are as follows:

- Various exemptions for certain covered habitat mitigation projects (for example, many projects of less than 40 acres are proposed to be exempt);
- Specific decision making criteria to guide the review of use permits for proposed projects;
- Detailed findings that describe the policy grounds supporting limited County regulation of certain types of habitat projects undertaken as mitigation for out-of-county impacts; and
- A requirement that covered habitat mitigation projects provide agricultural mitigation, if necessary, in accordance with the Yolo County Agricultural Conservation Easement Program (Yolo County Code Section 8-2.2416).

The Yolo County Planning Commission held a public hearing to consider the proposed ordinance on November 8, 2012. By a unanimous vote (6-0, 1 absent), the Planning Commission recommended that the Board of Supervisors adopt the ordinance. The Planning Commission also recommended that the ordinance include (a) provisions requiring the maintenance of a map of projects approved pursuant to the ordinance, (b) revised language requiring an economic impacts analysis for projects of 40 or more acres (rather than more than 160 acres, as proposed in the version presented for Planning Commission review).

The ordinance, if approved, would apply in the Agricultural Preserve, Agricultural Exclusive, Agricultural General, Agricultural Industry, Public Open Space, and Open Space Zones within the unincorporated area of the County. A notice of exemption pursuant to California Environmental Quality Act (CEQA) Guidelines Sections 15307 (actions by regulatory agencies for the protection of natural resources), 15308 (actions by regulatory agencies for protection of the environment), and Public Resources Code Section 15061(b)(3) (the “common sense” or “general rule” exemption) will be considered by the Board of Supervisors. Pursuant to California Government Code Section 65009(b)(2) and Public Resources Code Section 21177, any lawsuit challenging the approval of the proposed ordinance and related actions, including adoption of one or more exemptions pursuant to CEQA, may be limited to only those issues raised at the public hearing described in this notice, or in written correspondence delivered to the Board of Supervisors or the Office of the County Counsel at, or prior to, the public hearing.

A Board letter describing the ordinance will be available in hard copy and electronically on the Friday prior to the meeting. A copy of the ordinance may be requested from Phil Pogledich, Senior Deputy County Counsel, Office of the County Counsel, 625 Court Street, Room 201, Woodland CA 95695, via e-mail (to philip.pogledich@yolocounty.org) or by telephone (530-666-8172).

Dated: January 18, 2013

Julie Dachtler, Deputy Clerk, Yolo County Board of Supervisors

(2015.5 C.C.P.)

Filing Stamp

STATE OF CALIFORNIA
County of Yolo

I am a citizen of the United States and a resident of the county aforesaid. I am over the age of eighteen years and not a party to or interested in the above-entitled matter. I am the principal clerk of the printer of

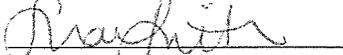
THE DAVIS ENTERPRISE
315 G STREET

printed and published Tuesday through Friday and Sunday in the city of Davis, County of Yolo, and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of Yolo, State of California, under the date of July 14, 1952, Case Number 12680. That the notice, of which the annexed is a printed copy (set in type not smaller than non-pareil), has been issue of said newspaper and not in any supplement thereof on the following dates to-wit:

January 18
All in the year(s) 2013

I certify (or declare) under penalty of perjury that the foregoing is true and correct.

Dated at Davis, California,
This 18th day of January, 2013


Shannon Smith
Legal Advertising Clerk

FILED

JAN 23 2013

BY Rupita Ramirez
DEPUTY CLERK OF THE BOARD

Proof of Publication
DE205070
PHN/Ordinance



LEGAL NOTICES

YOLO COUNTY BOARD OF SUPERVISORS NOTICE OF PUBLIC HEARING/SUMMARY OF ORDINANCE

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- Various exemptions for certain covered habitat mitigation projects (for example, many projects of less than 40 acres are proposed to be exempt);
- Specific decision making criteria to guide the review of use permits for proposed projects;
- Detailed findings that describe the policy grounds supporting limited County regulation of certain types of habitat projects undertaken as mitigation for out-of-county impacts; and
- A requirement that covered habitat mitigation projects provide agricultural mitigation, if necessary, in accordance with the Yolo County Agricultural Conservation Easement Program (Yolo County Code Section 8-2.2416).

The Yolo County Planning Commission held a public hearing to consider the proposed ordinance on November 8, 2012. By a unanimous vote (6-0, 1 absent), the Planning Commission recommended that the Board of Supervisors adopt the ordinance. The Planning Commission also recommended that the ordinance include (a) provisions requiring the maintenance of a map of projects approved pursuant to the ordinance, (b) revised language requiring an economic impacts analysis for projects of 40 or more acres (rather than more than 160 acres, as proposed in the version presented for Planning Commission review).

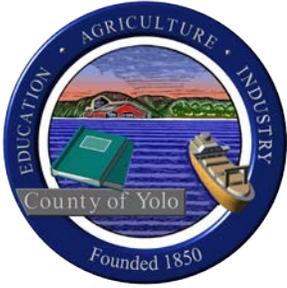
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A Board letter describing the ordinance will be available in hard copy and electronically on the Friday prior to the meeting. A copy of the ordinance may be requested from Phil Pogledich, Senior Deputy County Counsel, Office of the County Counsel, 625 Court Street, Room 201, Woodland CA 95695, via e-mail (to philip.pogledich@yolocounty.org) or by telephone (530-666-8172).

Dated: January 18, 2013
Julie Dachtler, Deputy Clerk
Yolo County Board of Supervisors

DE205070

January 18, 2013



COUNTY OF YOLO

Board of Supervisors

District 1, **Michael H. McGowan**
District 2, **Don Saylor**
District 3, **Matt Rexroad**
District 4, **Jim Provenza**
District 5, **Duane Chamberlain**

625 Court Street, Room 204 • Woodland, CA 95695
(530) 666-8195 • FAX (530) 666-8193
www.yolocounty.org

County Administrator, **Patrick S. Blacklock**
Deputy Clerk of the Board, **Julie Dachtler**

PUBLIC NOTICE

ADOPTED ORDINANCE NO. 1426

NOTICE is hereby given that at its regularly scheduled meeting of January 29, 2013, the Yolo County Board of Supervisors adopted Ordinance No. 1426 regulating habitat mitigation projects and related actions.

The Ordinance was adopted by the following vote:

AYES: McGowan, Saylor, Rexroad, Provenza, Chamberlain.

NOES: None.

ABSENT: None.

ABSTAIN: None.

Copies of the full text of the Ordinance are available at the Office of the Clerk of the Board of Supervisors, 625 Court Street, Room 204, Woodland, CA 95695.

Dated: February 6, 2013

Lupita Ramirez, Deputy Clerk
Yolo County Board of Supervisors

(2015.5 C.C.P.)

Filing Stamp

STATE OF CALIFORNIA
County of Yolo

FILED

I am a citizen of the United States and a resident of the county aforesaid. I am over the age of eighteen years and not a party to or interested in the above-entitled matter. I am the principal clerk of the printer of

FEB 13 2013
BY Lupita Ramirez
DEPUTY CLERK OF THE BOARD

THE DAVIS ENTERPRISE
315 G STREET

Proof of Publication
DE205096
Ordinance

printed and published Tuesday through Friday and Sunday in the city of Davis, County of Yolo, and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of Yolo, State of California, under the date of July 14, 1952, Case Number 12680. That the notice, of which the annexed is a printed copy (set in type not smaller than non-pareil), has been issue of said newspaper and not in any supplement thereof on the following dates to-wit:

February 6
All in the year(s) 2013

I certify (or declare) under penalty of perjury that the foregoing is true and correct.

Dated at Davis, California,
This 6th day of February, 2013

Shannon Smith
Shannon Smith
Legal Advertising Clerk



LEGAL NOTICES

**PUBLIC NOTICE
ADOPTED ORDINANCE NO. 1426**

NOTICE is hereby given that at its regularly scheduled meeting of January 29, 2013, the Yolo County Board of Supervisors adopted Ordinance No. 1426 regulating habitat mitigation projects and related actions.

The Ordinance was adopted by the following vote:

- AYES: McGowan, Saylor, Rexroad, Provenza, Chamberlain.
- NOES: None.
- ABSENT: None.
- ABSTAIN: None.

Copies of the full text of the Ordinance are available at the Office of the Clerk of the Board of Supervisors, 625 Court Street, Room 204, Woodland, CA 95695.

Dated: February 6, 2013
Lupita Ramirez, Deputy Clerk
Yolo County Board of Supervisors

DE205096 February 6, 2013