



REPORT TO COUNCIL

City of Sacramento

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915 I Street, Sacramento, CA 95814-2671
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PUBLIC HEARING
May 4, 2006

Honorable Mayor and
Members of the City Council

Subject: Natomas Basin Habitat Conservation Fee Increase

Location/Council District:

North and South Natomas, Council District 1

Recommendation:

Staff recommends the City Council authorize increasing the amount of the Natomas Basin Habitat Conservation Plan (HCP) fee by adopting the attached resolution, to be effective in 60 days.

Contact: Scot Mende, New Growth Manager, 808-4756; and Carol Shearly 808-5393

Presenter: Scot Mende, 808-4756

Department: Development Services

Division: New Growth

Organization No: 4823

Summary:

A fee increase, from \$24,897 to \$41,182 per gross acre of development, is proposed to cover the increase in costs associated with implementing the 2003 Natomas Basin HCP. City Council approval is required before the fee increase will take effect. The fee increase is proposed to take effect within 60 days. On March 1, 2006, the Natomas Basin Conservancy (TNBC) Board of Directors recommended the fee increase and requested that the City reauthorize the land dedication requirement.

Committee/Commission Action:

No action was taken by the Planning Commission on this item.

Background Information:
History of the HCP Fee

On August 7, 1997, the City Council added Chapter 84.10 to Title 84 (currently Chapter 18.40 of Title 18) of the City Code which created and established the authority for the Habitat Conservation Fee, which is used to fund the costs of implementing the Natomas Basin HCP (Ord. No. 97-046). Chapter 18.40 directs the City Council, by resolution, to set the amount of the fee. Also, the chapter contemplates the periodic revision of the fee by resolution of the Council. On September 2, 1997, the City Council established the specific amount of the HCP Fee as \$2,656 per gross acre (Reso. No. 97-508). The history of the HCP fee is shown in the table below:

TABLE 1
History of HCP Fees

Date	HCP Fee / Gross Acre	Resolution No.
October 31, 1995	\$2,240 [Interim Fee]	95-060
September 2, 1997	\$2,656	97-508
August 17, 1999	\$3,292	99-473
September 12, 2000	\$3,942	2000-538
June 12, 2001	\$10,021* (incl. \$4,028 premium)	2001-391
May 21, 2002	\$11,962* (incl. \$4,028 premium)	2002-300
June 24, 2003	\$12,270	2003-460
April 20, 2004	\$16,124 (\$8,624 w/ land dedication)	2004-285
April 5, 2005	\$24,897 (\$12,397 w/ land dedication)	2005-223
April 25, 2006	\$41,182 (\$18,682 w/ land dedication)	proposed

* - In 2001, the Council increased the fee to \$10,021 per gross acre to implement the 1997 HCP and the Settlement Agreement. The fee included a base fee of \$5,993 per gross acre and a premium fee of \$4,028 per gross acre to acquire reserve lands in prioritized areas of the Basin in order to comply with the agreement. In 2002, the Council increased the fee to \$11,962 per gross acre – a base fee of \$7,934 and a premium fee of \$4,028 for the agreement.

TNBC is the plan operator of the Natomas Basin HCP. TNBC acquires mitigation land and implements management and enhancement measures necessary to meet the mitigation requirements of the HCP. With best available information regarding current and projected costs associated with implementation of the 2003 Natomas Basin HCP, TNBC staff worked with Economic and Planning Systems (EPS) to update the HCP finance model. Based on this analysis, a determination was made that a fee increase was necessary to successfully implement the HCP.

Land Dedication Requirement

In the past couple of years, all large mitigation efforts have been accomplished through land dedication by the developers to TNBC, as opposed to payment of the Land Acquisition portion of the HCP fee. In April 2005, the City Council voted to require developers of 50-100+ acres to dedicate land in lieu of fee payment. This provision

expires May 1, 2006, unless specifically reauthorized by the City Council. The attached resolution would extend this provision to May 1, 2007.

Justification for the HCP Fee Increase

In order to implement the HCP, TNBC is requesting Council to approve a fee increase. The current fee is \$24,897 per gross acre of development (\$12,397 per acre with land dedication). The proposed fee would be \$41,182 per gross acre of development (\$18,682 per acre with land dedication).

The HCP Fee is made up of five major parts: 1) Land Acquisition, 2) Restoration and Enhancement, 3) Administration and Operation and Maintenance (O+M), 4) O+M Endowment, and 5) Supplemental Endowment. The fifth component was added in June 2001 to provide assurances that the last acre of required mitigation land will be purchased after all the fee revenue has been collected. Unlike the Supplemental Endowment part of the fee, the O+M Endowment Fund is used to maintain the preserve lands in perpetuity after build-out of the plan area and all development fee revenue has been collected. A small sixth fund is allocated to the City for fee collection (2% of the fee).

The primary reasons for the proposed fee increase are:

- 1) Land Cost Escalation: The estimated value of habitat land has nearly doubled over the past year – increasing from \$25,000 per acre to \$45,000 per acre. This increase in land value is reflected in the Land Acquisition component of the fee, and also causes substantial increases in the Supplemental Endowment, Administration / Operations & Maintenance, and O&M Endowment components. In total, the higher land costs account for 85% of the fee increase.
- 2) Water Cost Increase: Water costs paid by TNBC for habitat property in the Natomas Central Mutual Water Company (NCMWC) service area increased substantially. The basic rate increased from \$113 per acre to \$122 per acre for rice. The TNBC is assumed to pay a larger share of the water costs in order to entice rice farmers to continue production. TNBC pays the full cost of water applied to managed marsh complexes. TNBC has added a bad debt allowance. In total, the higher water prices account for 7% of the fee increase.
- 3) Other Increases: Other components of the fee are increased to account for higher costs to prepare Site-Specific Management Plans, decreased rice revenue assumptions, and conversion of rice acreage to managed marsh.

See Attachment **B** – a summary portion of the 2006 Finance Model, prepared by Economic and Planning Systems (EPS). A copy of the full fee study is available for review at the City Clerk's Office, Historic City Hall, 915 I Street, 1st Floor, Sacramento, CA 95814.

Financial Considerations:

Developers of land in North and South Natomas currently pay a HCP fee of \$24,897 per gross acre. EPS completed an update of the HCP Finance Model based on estimated land acquisition costs that indicates a need to increase fees in order to successfully implement the HCP. The HCP Fee revenue pays for the land acquisition, restoration and enhancement, administration and operations and maintenance, O+M endowment, and supplemental endowment funds associated with implementing the HCP and mitigating impacts of urban development on the endangered species in the Natomas Basin. The Council is being requested to increase the fee to \$41,182 per gross acre based on the finance model update. There is no obligation of the General Fund associated with this fee.

Environmental Considerations:

The City Council's action in approving this resolution is solely for the purpose of establishing an adequate HCP fee to be used to implement the HCP, and is therefore not a project for the purpose of the California Environmental Quality Act. Previous environmental review has been conducted related to the North Natomas Community Plan, the 2003 Natomas Basin HCP, and the Comprehensive Drainage Plan, among others.

Policy Considerations:

The 2003 Natomas Basin HCP was approved by Council on May 13, 2003; the federal Incidental Take Permits (ITP) was issued by U.S. Fish and Wildlife Service on June 27, 2003, and the amended state ITP was issued by California Department of Fish and Game on July 10, 2003. A fee increase is necessary to provide adequate funding to implement the 2003 HCP and comply with the ITP and the related Implementation Agreement.

Adoption of the fee increase is consistent with the City's Strategic Plan Three-Year Goal to "Achieve sustainability and livability." The fee increase also helps achieve the City's Smart Growth Principle #6 - Preserve open space, farmland, natural beauty, and critical environmental areas.

The spiraling costs of the HCP fee can ultimately be addressed by taking two key actions – neither of which is included at this time in this staff report.

- **Opening up Area B as mitigation:** The supply of suitable mitigation land is currently restricted to the Natomas Basin. If suitable lands outside the Natomas Basin (Area B) are eligible for mitigation, then the pressure on land prices would diminish significantly. Area B was eligible in the original HCP, but was removed from eligibility in the 2003 HCP.

- **Exerting Influence on Natomas Mutual Water Company fee structure for water supply:** The higher prices for water for rice production and managed marsh land is posing a problem for the successful implementation of the HCP.

Emerging Small Business Development (ESBD):

Not applicable to this report.

Respectfully submitted by: Scot H Mende
Scot Mende, New Growth Manager

Approved by: Carol Shearley
Carol Shearley
Director of Planning, Development Services Dept.

Recommendation Approved:

Ray Kerridge
RAY KERRIDGE
City Manager

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RESOLUTION NO. 2006-

Adopted By The Sacramento City Council

May 4, 2006

**A RESOLUTION INCREASING THE AMOUNT OF
THE HABITAT CONSERVATION FEE ESTABLISHED
PURSUANT TO CHAPTER 18.40 OF TITLE 18 OF THE
CITY CODE**

BACKGROUND:

- A. On August 7, 1997, the City Council of the City of Sacramento adopted Ordinance No. 97-046, which added Chapter 84.10 to Title 84 (now Title 18, Chapter 18.40) of the City Code, which created and established the authority for the Habitat Conservation Fee, which is used to fund the costs of implementation of the Natomas Basin Habitat Conservation Plan (HCP). Chapter 18.40 of Title 18 directs the City Council, by resolution, to set the specific amounts of the fee and the manner in which the fee is to be paid.
- B. On September 2, 1997, the City Council adopted Resolution No. 97-508, pursuant to which it established the specific amounts of the Habitat Conservation Fee and the manner in which the fee is to be paid.
- C. Section 18.40.080 of Title 18 of the City Code contemplates periodic revision of the Habitat Conservation Fee by resolution of the City Council.
- D. The Natomas Basin Conservancy (TNBC), a non-profit public benefit corporation, is the entity responsible for administration of the Natomas Basin HCP, which is funded by the Habitat Conservation Fee.
- E. On March 1, 2006, the Board of Directors of TNBC recommended that the City of Sacramento increase the Natomas Basin HCP from the current rate of Twenty-Four Thousand Eight Hundred Ninety-seven Dollars (\$24,897.00) per gross acre) to Forty-one Thousand One Hundred Eighty-two Dollars (\$41,182.00) per gross acre. The request is based upon a HCP Finance Model dated March 1, 2006, which established the need for an increase in the Habitat Conservation Fee to fund actual costs of administering the HCP.
- F. A public hearing on adoption of this Resolution to increase the Habitat Conservation Fee and require land dedication in lieu of payment of a portion of the Habitat Conservation Fee was heretofore noticed and set as part of a regularly scheduled hearing for May 4, 2006, at 2 PM in the City Council Chamber located at City Hall, 915 I Street, Sacramento, California, 95814.

- H. On April 5, 2005, by Resolution 2005-223, the City Council approved a land dedication requirement. The Resolution identifies that this provision will expire unless extended by the City Council.

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:

SECTION 1. Findings

The City Council hereby finds as follows:

- (a) All provisions set forth above are true and correct and are hereby incorporated herein by reference as findings for purposes of this resolution. In addition, those findings and other provisions specified in the Ordinance (Ordinance No. 97-046) are incorporated herein by reference as findings for purposes of this resolution.
- (b) Participating in the HCP is one of several alternatives available for obtaining incidental take protection which a landowner may select to satisfy obligations imposed by the federal and state Endangered Species Acts, the Mitigation Monitoring Plans, and the SAFCA Permit. The Plan itself is designed to serve a number of purposes, including but not limited to the satisfaction of the Mitigation Monitoring Plan requirements specified in the North Natomas Community Plan and requirements of the SAFCA Permit, relating to direct, indirect, and cumulative biological impacts associated with Urban Development in the Permit Area.
- (c) Because payment of the Habitat Conservation Fee pursuant to the HCP is only one of the available options for a landowner seeking to satisfy its obligations relating to direct, indirect, and cumulative biological impacts of urban development in the Natomas area, the fee is voluntary in nature and is not a mandatory imposition. It is therefore not legally required to demonstrate the satisfaction of the various nexus tests set forth in Government Code Sections 66000 et. seq. Nevertheless, the Council finds as to the increased Habitat Conservation Fee: (i) the amount of increased fee has been set based upon the HCP Finance Model, dated March 1, 2006, which has been reviewed and considered by the Board of Directors of TNBC,, and which has been reviewed and considered by the Council; (ii) the HCP Finance Model represents a rational, fair and equitable method of allocating the costs of implementation of the HCP, and allocates the burden among development projects in a manner which is approximately proportionate to the impacts which may be reasonably anticipated from such development activity; and (iii) the relationship between the increased Habitat Conservation Fee and the adverse environmental impacts it is designed to mitigate are clearly established in numerous environmental impact reports, including but not limited to those relating to the North Natomas Community Plan and the Comprehensive Drainage Plan for North Natomas, all of which are incorporated by reference as part of the findings supporting this resolution.

including but not limited to those relating to the North Natomas Community Plan and the Comprehensive Drainage Plan for North Natomas, all of which are incorporated by reference as part of the findings supporting this resolution.

- (d) The amount of the Habitat Conservation Fee, as increased by this resolution, is consistent with the City's General Plan, the North Natomas and South Natomas Community Plans, the North Natomas Financing Plan 2005 Update, the Mitigation Monitoring Plans and the SAFCA Permit.

SECTION 2. Amount of Fee

The amount of the Fee, which a landowner may voluntarily select as the landowner's preferred alternative for satisfaction of its legal obligations to mitigate for the adverse impacts of Urban Development on biological resources, for property located within the Permit Area is hereby set at the rate of Forty-one Thousand One Hundred Eighty-two Dollars (\$41,182.00) per gross acre of development.

SECTION 3. Land Dedication Requirement

Developers seeking an Urban Development Permit from the City shall pay all components of the Habitat Conservation Fee (\$41,182 per gross acre) except in the specific circumstances stated below. When the specific circumstances apply, the developer is required to dedicate land in lieu of payment of the Land Acquisition Fund of the Habitat Conservation Fee. When the developer is required to dedicate land (or exercises his/her option to dedicate land), the Habitat Conservation Fee is \$12,397 per gross acre plus the required mitigation land dedicated to TNBC in compliance with the land acquisition criteria pursuant to the 2003 Natomas Basin HCP. Mitigation land is determined to be required at a ratio of one half acre of mitigation land for every acre of developed land.

The specific circumstances when mitigation land is required in lieu of payment of the Land Acquisition portion of the Habitat Conservation Fee are:

- 1) land developments of 50 acres or less would continue to enjoy the option of full payment of the Natomas Basin HCP fee or land dedication in lieu of the Land Acquisition portion of the HCP fee;
- 2) developments of greater than 50 acres up to 100 acres would be required to dedicate land in lieu of the land cost portion of the Land Acquisition Fund, although affected developers may obtain a waiver from TNBC if it can be shown that the Land Acquisition Fund portion of the Natomas Basin HCP fee to be paid could adequately cover the cost to TNBC for land acquisition, and
- 3) developments of greater than 100 acres must dedicate land in lieu of the land acquisition portion of the Land Acquisition Fund.

In recognition of the fact that it is difficult to acquire land at exactly a specified number of acres, projects in excess of 50 acres must acquire mitigation land but are eligible to pay Land Acquisition fees for any portion of their land, 50 acres or less.

SECTION 4. Construction of Resolution

The provisions of the resolution are subject and subordinate to the provisions of Chapter 18.40 of Title 18 of the City Code, as enacted by Ordinance No. 97-046, and shall at all times be construed and applied consistent therewith as the same presently exist or may from time to time be amended.

SECTION 5. Judicial Action to Challenge this Resolution

Any judicial action or proceeding to attack, review, set aside or annul this resolution shall be brought within 120 days of its adoption.

SECTION 6. Effective Date

This resolution shall take effect 60 days following adoption of this resolution.

SECTION 7. Severability

If any section, phrase, sentence or other portion of this resolution for any reason is held or found to be invalid, void, unenforceable or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this resolution.

Attachment A

RESOLUTION NO. 0603.____

ADOPTED BY THE BOARD OF DIRECTORS OF
THE NATOMAS BASIN CONSERVANCY,
A CALIFORNIA NON-PROFIT PUBLIC BENEFIT CORPORATION,
ON MARCH 1, 2006

A RESOLUTION AUTHORIZING ELECTION OF LAND DEDICATION IN LIEU OF
PAYING THE ACQUISITION FUND PORTION OF THE HCP FEE

WHEREAS, The Natomas Basin Conservancy ("Conservancy") accepts fees pursuant to the HCP and specifically, pursuant to Section 4 of the Implementation Agreement, and Section VI of the Natomas Basin Habitat Conservation Plan (NBHCP), and

WHEREAS, the HCP fee includes an Acquisition Fund portion, which is used to acquire mitigation land necessary to implement the HCP, and

WHEREAS, Section VI-B.1 of the NBHCP provides that a fee payer may dedicate land in lieu of paying the Acquisition Fund portion of the fee, provided certain other conditions and requirements are met, and

WHEREAS, the Conservancy recognizes the ability built into the HCP which allows for the Land Use Agencies (e.g., City of Sacramento, County of Sutter) to cause the acceptance of land dedication in lieu of payment of the Acquisition Fund portion of the HCP fee, and

WHEREAS, the Conservancy believes the real estate market is sufficiently dynamic at this time that more HCP implementation certainty comes with election of the option to require land dedication in lieu of payment of the Acquisition Fund portion of the HCP fee.

NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE BOARD OF DIRECTORS OF THE NATOMAS BASIN CONSERVANCY AS FOLLOWS:

1. The Board of Directors of The Natomas Basin Conservancy requests that all relevant parties (the "Land Use Agencies") that are parties to the 2003 NBHCP require the land dedication option in lieu of payment of the Acquisition Fund portion of the HCP fee.
2. The action electing this option remain in effect until land prices stabilize and become more predictable, at which time the Conservancy will provide notice.
3. Mitigation for parcels under 25 acres will normally be exempted from this election and be allowed to pay the full HCP fund fees. Such exemption shall be subject to the Conservancy's Executive Director's determination that such exemption will not compromise the Conservancy's ability to meet its obligations under the HCP; and shall further be subject to the Conservancy's maintaining a surplus of mitigation land of 200 acres, or more, as of May 1 of the year in which the exemption is requested.

4. The Conservancy reserves the right to grant exceptions to this election based upon negotiations with a fee payer and the consent of the relevant Land Use Agency and Wildlife Agencies.

PASSED AND ADOPTED as of the 1st day of March, 2006, by unanimous vote

ATTEST:

Secretary



Briefing Paper on the NBHCP Fee The Natomas Basin Conservancy

March 29, 2006

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Introduction

This report is a brief on the status of the fee that supports the implementation of the Natomas Basin Habitat Conservation Plan (NBHCP). It provides an account of the issues The Natomas Basin Conservancy (Conservancy) has determined are relevant to the successful implementation of the NBHCP. The Conservancy's Board of Directors entertained a proposal to adjust the fee at its February 1, 2006 meeting and approved it on March 1, 2006.

The Finance Model used by the Conservancy and frequently referenced in this briefing paper is maintained by Economic and Planning Systems (EPS). EPS prepared the original Finance Model that is included as part of the NBHCP. The firm also prepared previous updates. Its work is done under contract with the Conservancy.

Those wanting further information may contact the Conservancy at:

The Natomas Basin Conservancy
2150 River Plaza Drive, Suite 460
Sacramento, CA 95833
Telephone: 916.649.3331
FAX: 916.649.3322



Report on the NBHCP Fee

By
The Natomas Basin Conservancy
March 29, 2006

Executive Summary. At a February 1, 2006 Conservancy Board of Directors meeting, the staff of the Conservancy presented a proposal to adjust the Natomas Basin Habitat Conservation Plan (NBHCP) fee. The HCP re-evaluation process is required under the terms of the NBHCP by February of each year. The fee is charged to facilitate implementation of the NBHCP.

As a result of the NBHCP Finance Model re-evaluation, a fee increase was proposed. The proposal recommends an increase from the current \$24,897.00 per acre (\$12,397.00 with land dedication) to \$41,182.00 per acre (\$18,682.00 with land dedication). At the Board's March 1, 2006 Board meeting, the proposed fee increase was accepted and approved by the Conservancy Board of Directors.

By far the largest reasons for the proposed increase is:

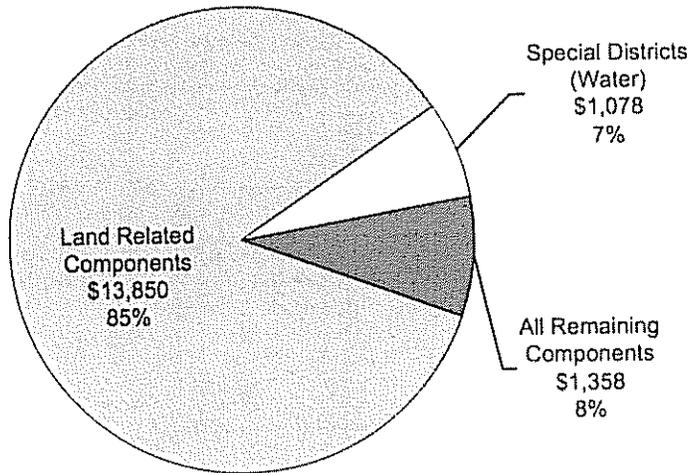
- 1.) *The cost of acquiring suitable mitigation land.* It is safe to say that the availability of acceptable mitigation land within the Natomas Basin is nearly exhausted except for that which could be acquired at extraordinary expense.¹ Fully 85 percent of the increase in the overall proposed 2006 HCP fee is attributable to mitigation land acquisition cost price inflation (see Figure 1 below).
- 2.) *Water costs.* After an approximate 15 percent increase last year, another significant water price increase by the Natomas Central Mutual Water Company (NCMWC) is in place for 2006, at what Conservancy staff believes to be approximately 2.5 times higher than the average for the Sacramento Valley.
- 3.) *Rice production economics.* There has been disruption in the rice business, attributable to market returns for growers that are less than the cost of production and the very challenging resistance to the limited number of pesticides available for use on the crop, especially herbicides.²

¹ In addition to mitigation land being acquired and dedicated for mitigation purposes, future fee payers already controlling land suitable for NBHCP and MAPHCP mitigation are electing to withhold their land from the market. This is likely to insure they will not be caught without the ability to satisfy their own future mitigation requirements. For other future fee payers not having acquired or otherwise reserved mitigation land for their Natomas Basin projects, it appears it will be extremely difficult for them to acquire the land and thus pay mitigation fees to the Conservancy for its use in HCP implementation.

² This is caused by at least two factors: a generation of back-to-back rice crops--monocropping--and the adaptation by weed pests to available chemical treatments. This is largely attributable to a serious reduction in chemistry (that is, products with varied active ingredients) available for use by growers to treat weed and insect pests.

With Conservancy Board approval, a proposed fee increase is submitted to the City Council of the City of Sacramento for action.³ City Council approval is required before the fee adjustment would take effect.

Figure 1
2006 NBHCP Fee Increase by Fee Component
 Total Fee = \$41,182 per acre
 Total Increase = \$16,286 per acre



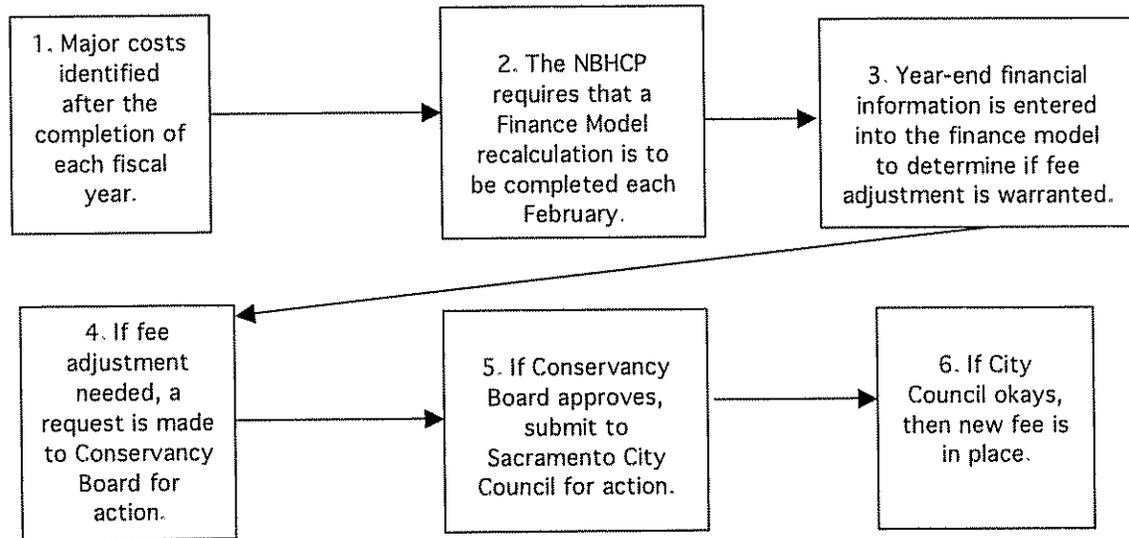
Background. The Conservancy acquires mitigation land necessary to meet the mitigation requirements of the NBHCP. This acquisition activity has taken place in the early years of the Conservancy operation. Lately, however, fee payers⁴ are required to dedicate land that is acceptable to the Conservancy and the NBHCP TAC, or otherwise, to the Conservancy and the Resources Agencies. The Conservancy completed its year 2005 mitigation requirement with the acquisition of the Vestal South tract on September 12, 2005. This property was a mitigation land dedication largely for Beazer Homes, but also in part for the County of Sacramento's Regional Sanitation Lower Northwest Interceptor Project. In all, the Conservancy has acquired 3,965.4589 acres of land.⁵

³ Normally, the HCP fee adjustment would also be submitted to the County of Sutter's Board of Supervisors as well. However, the County has informed the Conservancy that it is not at this time accepting fees for development, thus it has declined to take action until such time as it begins the permit issuance process.

⁴ An exception has been made in the past for small developers of less than 50 acres in which case the developer may elect to pay the full NBHCP fee or dedicate suitable land and pay only the non-Land Acquisition portion of the NBHCP fee, provided the Conservancy has surplus land available for use as mitigation.

⁵ A portion of this land was acquired for purposes of mitigation under the Metro Air Park HCP, for special mitigation requirements required of the Metro Air Park development group, and also for "surplus" uncommitted land held by the Conservancy for various additional purposes.

Figure 2
Illustration of general steps taken to determine
if NBHCP fee adjustment is warranted



With information available from the year's land acquisition and other Conservancy projects, the Conservancy recently began work with its consultant, Economic Planning Systems (EPS), to introduce new cost information into the NBHCP Finance Model. With this new information, the finance model was re-calculated. A determination was then made that a fee increase was necessary to keep the implementation of the NBHCP moving forward. The Conservancy's Board of Directors approved the fee increase, so Conservancy staff is forwarding a request to the City of Sacramento, recommending it authorize an increase in the fee.

Status. The current fee is \$24,897.00 per developed acre. This fee level was established approximately this time last year under the same general process and timing as that outlined above in Figure 2. Estimated year 2006 acquisition cost information was then entered into the Finance Model, also as described above. Other information was added to the mix of finance information considered, including the cost of implementing the site specific land management plans, budgets for RD 1000 and the NCMWC, land management and other more predictable costs such as property taxes.

The result of the Finance Model recalculation indicates the need for a fee increase to \$41,182.00 per acre.

The fee recommendation. The NBHCP fee is made up of five major parts:

- 1.) land acquisition,
- 2.) restoration and enhancement,
- 3.) administration,
- 4.) endowment, and
- 5.) supplemental endowment.

A smaller additional fund is allocated for fee collection for the City of Sacramento. All funds are described in the NBHCP at Section VI.B.1.

A discussion of each HCP fee fund and proposed adjustments to it follows:

1 Land acquisition. This represents the largest increase in the cost of implementing the NBHCP. Figure #1 shows that approximately 85 percent of the total fee increase is attributable to the cost of mitigation land acquisition. The new land acquisition component of the HCP fee is proposed at \$23,250.00 per acre. This represents a considerable increase over the current fee of \$12,750.00 per acre. Accordingly, this is by far the largest component of the NBHCP fee increase (see Figure #3) among the five funds as well as being by far the largest portion of the fee itself.

The Conservancy has acquired a total of 25 farms since it began formal operations under City guidance in December 1998. Additional smaller conservation easements have also been acquired. The average per-acre cost of these acquisitions remains just under \$10,000.00 per acre. However, land development pressure--fueled by a strong economy, speculation and a severe shortage of available mitigation land--has pushed land prices much higher over time. The last mitigation land transaction resulting in a land dedication to the Conservancy took place on September 12, 2005 at \$40,000.00 per acre.

By far the largest reason for the requested fee increase is the sharply rising cost of acquiring mitigation land in the Natomas Basin. Of the proposed \$16,286.00 per acre increase in the NBHCP fee, \$13,850 of it, or 85 percent, is tied to this factor.

2. Restoration and enhancement. The Conservancy is obligated to submit to the California Department of Fish and Game (CDFG) and the U.S. Fish and Wildlife Service (USFWS) site specific management plans (SSMP) on each of its acquired lands within 12 months of the acquisition of those lands. In just over three years following this, the 25 percent managed marsh component specified in this plan, as well as in the NBHCP, must be in place. Efforts and action to prepare SSMPs and to place 25 percent of mitigation lands into managed marsh must be documented each year in the Conservancy's Implementation Annual Report. The Annual Report must be submitted to CDFG and USFWS, and the Resource Agencies comment on the adequacy of the report soon thereafter.

A good estimate of the cost of restoration and enhancement projects on Conservancy lands is now available since numerous projects have been completed. These costs have been calculated into the NBHCP Finance Model. As new information is learned about management of habitat for use by the NBHCP's covered species, adjustments can be made in annually-required future Finance Model recalculations which further insure adequate implementation funding.

The restoration and enhancement portion of the fee proposal is \$1,278.00, and the proposed increase is \$255.00 per acre over the current fee of \$1,023.00.

3. *Administration* The Administration portion of the fee covers the cost of land management, monitoring for the giant garter snake and Swainson's hawk and other covered species, maintaining a staff, office rent, legal costs and the like. This fund component of the NBHCP fee represents \$9,255.00 of the total. The proposed fee shows an increase of \$3,012.00 per acre from the current fee of \$6,243.00.

The Conservancy is experiencing much higher expenses than was originally anticipated, especially in water costs and property taxes. The income used to offset some of this expense, primarily farm income, is substantially lower than expected (see point #3 in Executive Summary for fuller discussion on this).

The portion of Administration Fund attributable to "Administrative Costs" (e.g., staff and Board expense, office rent and expenses, insurance, accounting, legal and land management, etc.) increased from \$946,000 in 2005 to \$1,034,000 in 2006, a 9.3 percent increase. Staff and Board expense remains unchanged from 2005, with minor increases in office expense (mostly an increase in rent) and "contract work" (due to expanded acreage). By far the largest expense increase in the Administrative Costs budget are government fees and taxes, which increased from \$95,000 in 2005 to \$140,000 in 2006, an increase of just over 47 percent.

4. *Endowment*. The Endowment Fund is designed to insure the Conservancy's mitigation lands will be cared for in perpetuity. The fund accounts for \$5,555.00 of the overall proposed fee. The change proposed for this fund is \$1,810.00 per acre more than the 2005 fee of \$3,745.00 per acre. The increase for the Endowment Fund is significantly impacted by the rising costs for mitigation land, since the price of land influences property tax valuations. The rapidly rising costs for water are also causing fee increases in this category, since the Endowment Fund will be utilized for operating expenses in the later years of the NBHCP implementation, and water costs will be a key component of O&M costs.

5. *Supplemental endowment*. This fund was created as a result of changes made to the NBHCP during the *NWF v. Babbitt* litigation and resubmittal of the NBHCP in 2003. The amount contained in the current fee is \$638.00 and the increased fee for 2006 is proposed for \$1,020.00. The increase proposed in this category is also influenced by rising land costs, as the cost of land acquisitions must be factored in to the 200-acre surplus requirement.

Figure 3
NBHCP fee components and proposed changes

HCP Fund	Current fee (\$)	Proposed fee (\$)
Land acquisition	12,750	23,250
Restoration and enhancement	1,023	1,278
Administration	6,243	9,255
Endowment	3,745	5,555
Supplemental endowment	638	1,020
Fee administration	498	824
<i>Total</i>	24,897	41,182
<i>Fee w/Land Dedication option</i>	12,397	18,682

Conclusion. Based on the updated information regarding the cost of implementing the HCP, the Conservancy has determined a fee increase is essential. With the requested increase and the fees being collected for use by the Conservancy in implementing the HCP, the Conservancy believes it can continue to implement the HCP on behalf of the City and the other parties. However, significant challenges lie ahead that the fee increase alone may not be able to address. Most importantly, due to the three issues addressed in the “Executive Summary” and elsewhere in this report, the Conservancy is notifying Permittees (City of Sacramento, County of Sutter, Metro Air Park) that amendments may be needed to address these issues on a long-term basis. It is possible that the issues may resolve themselves, but this is seen as unlikely. It is also possible that the Resources Agencies or the Permittees can address the challenges in ways. It is not the Conservancy’s job to determine what, if any, solution may be needed.

In sum, three cost components are nearly completely responsible for the proposed fee increase. These are, in order of the largest impact to a lower impact:

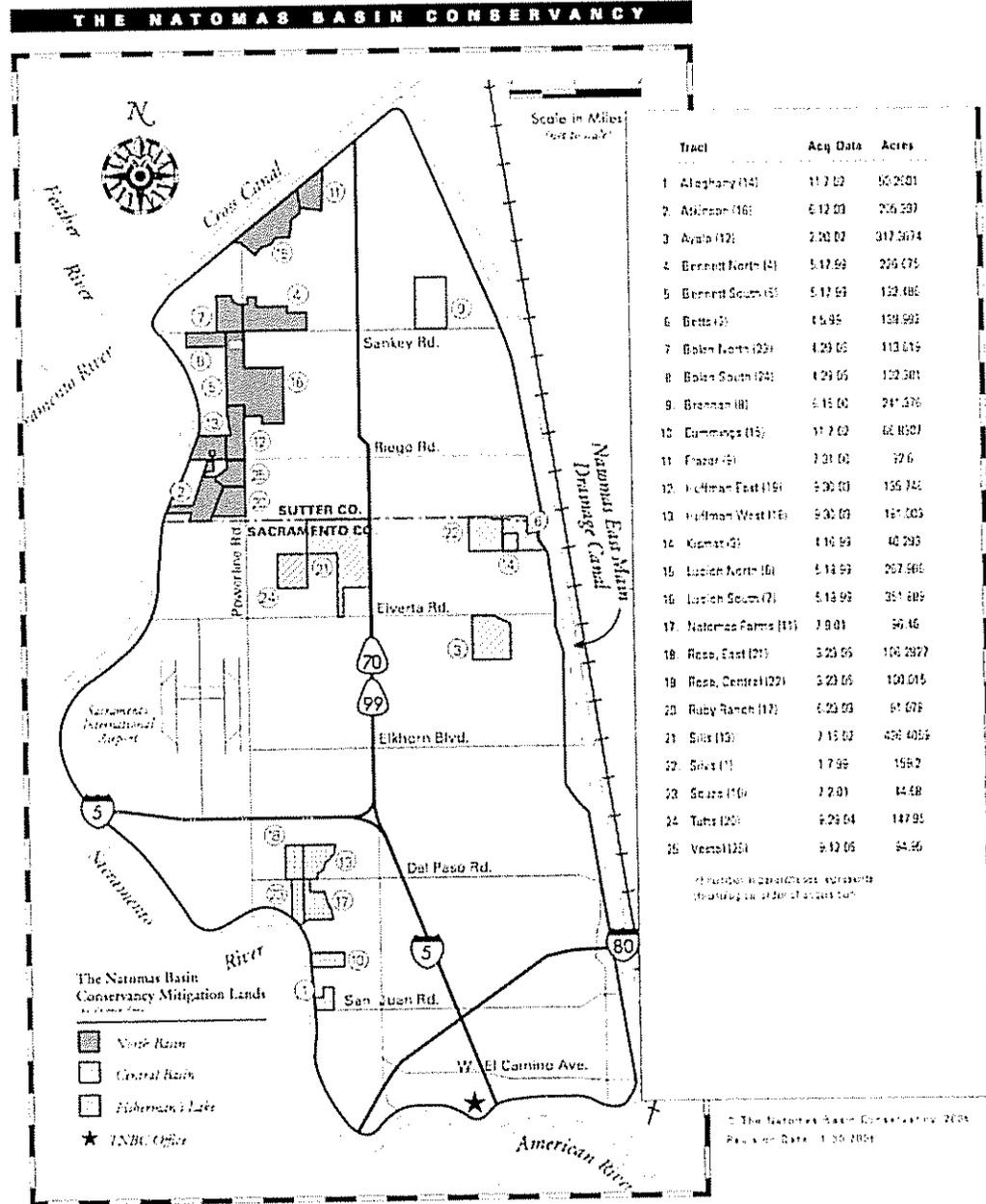
- 1.) the rapidly increasing cost of mitigation land acquisition,
- 2.) the higher cost of water purchased from the NCMWC⁶, and
- 3.) significantly lower farm rents caused by increasing water costs and agronomic challenges in the production of rice in the Natomas Basin.

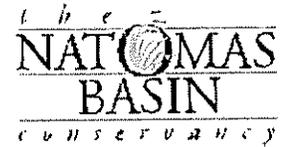
With the payment of the new fee, the Conservancy, acting as the NBHCP’s Plan Operator, can address the issues in the short term. However, fee payers will need to pay fees in order for the challenges to not deter successful HCP implementation in the short run. This is somewhat, if not largely, reliant upon the state of the economy and the resultant demand for mitigation. In order to address each of these, fees must be increased according to the 2006 NBHCP Finance Model calculations.

⁶ To a lesser extent, water costs increases from the Bureau of Reclamation are also at issue

Figure 4
2006 Base Map reveals the amount of acres acquired by the Conservancy to be used for mitigation under the NBHCP.

2006 BASE MAP





Glossary and Abbreviations

Annual Report	The Implementation Annual Report The Conservancy is required under Section 5.2 of the Implementation Agreement and Section IV.G.4 of the Natomas Basin Habitat Conservation Plan to produce and deliver an implementation annual report no later than 120 days after the close of the calendar year. Items to be included in the report are specifically prescribed.
CDFG	California Department of Fish and Game
Conservancy	The Natomas Basin Conservancy. A California non-profit public benefit corporation serving as “plan operator” of the Natomas Basin Habitat Conservation Plan.
EPS	Economic and Planning Systems. This is the consulting economist used to recalculate the NBHCP Finance Model.
Giant garter snake	(<i>Thamnophis gigas</i>) The giant garter snake is one of the largest garter snakes of the genus <i>Thamnophis</i> , with a total length up to 4.5 feet or greater. The garter snake in the Sacramento Valley and Delta regions has a dorsal ground color often dark brown to olive or nearly black, a complete dorsal strip varying in color from dull yellow to bright orange, and often orange on the ventral surfaces as well. Officially listed as a “threatened” species under federal and state authority, it is one of the two primary species protected under the NBHCP.
HCP	Habitat Conservation Plan(s). See NBHCP and MAPHCP below.
IA	The Natomas Basin Habitat Conservation Plan Implementation Agreement (See NBHCP).
MAPHCP	Metro Air Park Habitat Conservation Plan.
NBHCP	Natomas Basin Habitat Conservation Plan. The NBHCP applies to the 53,341-acre interior of the Natomas Basin, located in the northern portion of Sacramento County and the southern portion of Sutter County. The Basin contains incorporated and unincorporated areas within the jurisdiction of the City of Sacramento, Sacramento County and Sutter County. The purpose of the NBHCP is to promote biological conservation along with economic development and the continuation of agriculture within the Natomas Basin. The NBHCP establishes a multi-species conservation program to mitigate the expected loss of habitat values and incidental take of protected species that would result from urban development, operation of irrigation and drainage systems, and rice farming. The goal of the NBHCP is to preserve, restore, and enhance habitat values found in the Natomas Basin while allowing urban development to proceed according to local land use plans. The NBHCP is a supporting document for federal Section 10(a)(1)(B) and State Section 2081 permit applications. Section 10(a)(1)(B) of the federal Endangered Species Act allows incidental take of endangered or threatened species subject to its permit requirements. Similarly, State Section 2081 of the California Fish and Game Code allows the California Department of Fish and Game to enter into management agreements that allows activities which may otherwise result in habitat loss or take of individuals of a state listed species.
NCMWC	Natomas Central Mutual Water Company. The primary provider of water to irrigate Conservancy-owned farm and marsh habitat.
Swainson’s hawk	(<i>Buteo swainsoni</i>) The state-listed threatened Swainson’s hawk is a medium sized buteo (25 to 35 ounces) and is distinguished from other buteos by long, narrow, pointed wings. Swainson’s hawk plumage varies greatly. Light phase birds have buff white wing linings with darkly barred brown flight feathers; dark phase birds are dark brown with white undertail coverts, and intermediate reddish plumage occurs between phases.



TAC

The NBHCP's Technical Advisory Council The TAC consists of six members, two each appointed from the City of Sacramento, the California Department of Fish and Game and the U S Fish and Wildlife Service

USFWS

United States Fish and Wildlife Service.

