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SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN JOAQUIN

WETLANDS PRESERVATION
FOUNDATION,

Petitioner and Plaintiff,

v.

DEPARTMENT OF WATER
RESOURCES, THE NATURE
CONSERVANCY, and DOES 1-10
inclusive,

Respondents and Defendants

THIS CASE HAS BEEN ASSIGNED TO
JUDGE CARTER P. HOLLY IN
DEPARTMENT 10B FOR ALL PURPOSES,
INCLUDING TRIAL

Case No. STR-CV-JWM-2018-8957

**VERIFIED PETITION FOR WRIT OF
MANDATE AND COMPLAINT FOR
INJUNCTIVE RELIEF**

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Introduction

1
2 1. Staten Island is a 9,000 acre island located in San Joaquin County, in the heart of
3 the Sacramento-San Joaquin Delta (“Delta”), one of the most diverse and productive ecosystems
4 in the United States. Staten Island not only provides California’s citizens with valuable
5 agricultural farmland but also is one of the most important roosting and feeding sites in the
6 country for sandhill cranes, an ancient and magnificent species that relies on Staten Island and
7 nearby Delta islands as their winter home.

8 2. Unfortunately, the California Department of Water Resources (“DWR”) and its
9 proxy owner of Staten Island, The Nature Conservancy (“TNC”), are ruining Staten Island and
10 threatening its long-term viability. In 2001, with the help of taxpayer funds contributed by two
11 ballot propositions, Proposition 13 and Proposition 204, and directed by DWR, TNC acquired
12 Staten Island. As part of that transaction, TNC provided DWR a “conservation easement” that
13 nominally would allow DWR to ensure that Staten Island was being managed to promote wildlife
14 diversity, sustainable agriculture and the health of the Delta. TNC is standing in DWR’s shoes as
15 the manager of Staten Island but the ultimate responsibility for protecting this extraordinary
16 island and public resource, acquired with public money, lies with DWR.

17 3. It has not worked out as planned. Over the last seventeen years, DWR and TNC
18 have failed to promote sustainable agriculture on Staten Island, instead planting sub-irrigated corn
19 crops year after year. Growing sub-irrigated corn, instead of surface-irrigated crops like rice or
20 alfalfa, results in topsoil oxidation of organic (peat) soils and subsiding field elevations. The
21 mismanagement of Staten Island by DWR and TNC has resulted in the loss of more than 12
22 million cubic yards of soil, lowered Staten Island field elevations, and threatened the integrity of
23 Staten Island levees, causing an unnecessary and serious risk that the entire island will be
24 permanently flooded. If Staten Island’s levees are breached and the island is flooded, the
25 resulting loss of Staten Island will have consequences not only for the local agricultural economy
26 and over-wintering sandhill cranes, but also for neighboring islands and their levees, and indeed
27 for the entire Delta. Neither DWR nor TNC has shown any intention of changing course to
28 address this dangerous and potentially tragic situation.

1 4. DWR has failed to exercise its authority or fulfill its duties to protect Staten
2 Island and its invaluable wildlife habitat. Those duties flow from the Delta Reform Act, and
3 other statutory provisions and common law; and they were confirmed in the Staten Perpetual
4 Conservation Easement (“SPCE”). DWR has also failed to provide sufficient funds, resources, or
5 oversight to prevent soil subsidence and levee damage on Staten Island. DWR’s ongoing failure
6 to perform mandatory duties required by statute and common law caused and will cause
7 Petitioner and the general public to suffer clear and certain irreparable injury

8 5. Meanwhile, TNC has failed to live up to its proud environmental tradition,
9 reaping short-term gains from Staten Island at the risk of the island’s long-term health and
10 sustainability. Indeed, it appears from a review of public tax records that TNC’s subsidiary
11 managing the farming operations on Staten Island has not reinvested the profits from farming
12 back into protection of Staten Island (as required by the arrangement that gifted taxpayer funds to
13 TNC to purchase Staten Island) but has instead sent \$14.5 million in farming profits back to TNC
14 headquarters for TNC’s general operations.

15 6. Immediate steps must be taken to protect and save Staten Island, including
16 converting Staten Island to more sustainable farming practices, strengthening and extending
17 levees, and repairing its drainage system. Plaintiff WPF, a non-profit environmental organization
18 dedicated to preserving the Delta wetlands and its wildlife habitat, brings this action in order to
19 force DWR and TNC to reckon with their mistakes and, hopefully, to correct them—in a way that
20 will preserve perpetually the mutual benefits of agriculture and wildlife habitat on Staten Island.

The Parties

21
22 7. Petitioner and Plaintiff WETLANDS PRESERVATION FOUNDATION (“WPF”)
23 is a California non-profit organization organized under the laws of the State of California, with its
24 main office in Stockton, California. WPF’s principal mission is the preservation of Delta
25 Wetlands. WPF was founded to: (1) advance conservation and restoration of sustainable wetland
26 habitat and sustainable agricultural practices in the Sacramento-San Joaquin Delta, and (2)
27 promote understanding of the complementary synergies between natural habitat values and Delta
28 agriculture. WPF operates and preserves the “Black Hole” wetland, a 750-acre wetland habitat

1 created and owned by the Cortopassi Family Foundation. The Black Hole is located on Brack
2 Tract, just across the Mokelumne River from Staten Island. WPF's mission is to seek out,
3 rehabilitate, and preserve degraded Delta properties. WPF has a direct and beneficial interest in
4 DWR's compliance with its obligations to ensure the sustainability of the Delta. WPF is directly
5 and adversely affected by DWR's and TNC's mismanagement and neglect of Staten Island; and
6 WPF is beneficially interested in the DWR's fulfillment of its statutory duties and the outcome of
7 this litigation. This action involves enforcement of important rights affecting the public interest.
8 Petitioner, through the success of this litigation, will confer a substantial benefit to the citizens of
9 the state of California

10 8. Respondent and Defendant DEPARTMENT OF WATER RESOURCES is an
11 agency within the California Natural Resources Agency that is responsible for riverine flood
12 control as well as the control and administration of water to which the State of California has
13 domain pursuant to the provisions of the California Water Code. DWR is, and at all times
14 mentioned herein was, a governmental agency and political subdivision of the State of California,
15 formed and existing under the California Water Code. As a governmental agency involved in
16 state water management policy, DWR is subject to the public trust doctrine.

17 9. Defendant THE NATURE CONSERVANCY is, and at all times mentioned herein
18 was, a non-profit corporation organized and existing under the laws of the District of Columbia,
19 and having its principal office in the State of Virginia. TNC operates throughout California and
20 has fee title to Staten Island, located in San Joaquin County.

21 10. Petitioner does not know the names and capacities of defendants named herein as
22 Does 1 through 10, inclusive, and therefore states them by their fictitious names. Petitioner will
23 amend this complaint to state the true names and capacities of such fictitiously named defendants
24 when the same have been ascertained.

25 11. Petitioner is informed and believes that at all times relevant to the allegations of
26 this complaint, each fictitiously named defendant and each named defendant were and are jointly
27 responsible and liable for the acts and omissions of their co-defendants, both specifically and
28 fictitiously named. By virtue of their complicit behavior as to Staten Island and since 2002, each

1 defendant is legally responsible for the harm alleged in the complaint.

2 **Jurisdiction and Venue**

3 12. This Court has jurisdiction over this action pursuant to section 1085 of the
4 California Code of Civil Procedure, and Code of Civil Procedure section 410.10.

5 13. Venue for this action properly lies in the San Joaquin County Superior Court, as
6 the property in question (Staten Island) exists in San Joaquin County, and the acts and events
7 giving rise to the claims occurred at least in part in San Joaquin County.

8 **Factual Background**

9 **A. The Sacramento-San Joaquin Delta**

10 14. The Sacramento-San Joaquin Delta is an inland river delta formed by the
11 confluence of the Sacramento and San Joaquin Rivers, west of Stockton, California. With an area
12 of more than 1,000 square miles, the Delta is one of California's and the nation's most unique
13 resources, with highly productive agriculture and fisheries, important wildlife habitat, and
14 numerous recreational opportunities. The Delta is both an important stopover for migrating bird
15 populations and the winter home for enormous bird populations, including the sandhill crane.

16 15. Originally a large freshwater marsh, the Delta today includes numerous islands
17 and tracts, created by the establishment of man-made levees over the last century and a half. The
18 Delta is an inherently flood prone area because it is permeated by rivers and canals and is subject
19 to great tidal forces, drainage from all of the tributaries of the Sacramento and San Joaquin
20 Valleys, and violent storms. Before the Delta was modified by levees, the Sacramento and San
21 Joaquin rivers overflowed and allowed portions of land to be covered by water for long periods
22 each spring. The levees keep the islands and tracts from flooding by the surrounding rivers and
23 canals. The levee system is critical for the agricultural activity in the Delta, and for the wildlife
24 populations that feed on the remnants of agricultural harvests.

25 16. Failure of Delta levees would drastically affect the productivity of farming in the
26 Delta, the integrity of the Delta ecosystem, and water conveyance to urban areas. Levee failure is
27 harmful not only because of flooded island interiors, but also because it would draw saltwater
28 from the San Francisco Bay.

1 17. Levee failure and permanent flooding of a major Delta island—such as Staten
2 Island—would also damage adjacent islands through increased water pressure on sub-surface
3 sand stratas and lateral water seepage under adjacent island levees and fields.

4 18. Staten Island is one of the largest of the Delta islands, a 9,000 acre tract of land
5 situated between the north and south forks of the Mokelumne River. Staten Island, in its current
6 operation, consists entirely of agricultural farmland and farm-related structures. Most of Staten
7 Island has, for years, been dedicated to the farming of sub-irrigated corn, which, as discussed
8 below, has been severely detrimental to Staten Island’s soil elevations and levee stability.

9 19. Staten Island is also an important stopping point on the migration path for
10 numerous migratory birds including ducks, geese, herons, tundra swans, plovers, and sandpipers.
11 It is an especially important sanctuary for the sandhill crane. Sandhill cranes are thought to be one
12 of the oldest bird species on Earth. On the West Coast, sandhill cranes migrate from Canada and
13 Alaska to the Sacramento-San Joaquin Delta, where they spend much of the year feeding and
14 roosting. Staten Island is a primary roosting site for sandhill cranes and it attracts thousands of
15 cranes every year. During daylight hours, sandhill cranes feed on post-harvest waste grain, and at
16 night they roost on shallow-flooded fields.

17 20. As described in more detail below, in 2001, DWR arranged for the purchase of
18 Staten Island by TNC, with monies provided by California state taxpayers. Under this unusual
19 arrangement, TNC became the fee simple owner of Staten Island, with management responsibility
20 for the island, while DWR took ownership of a conservation easement that empowers DWR with
21 broad authority to monitor, protect, and preserve Staten Island’s agricultural and wildlife assets
22 and to ensure its long-term productivity and sustainability. It is the combined failure of DWR and
23 TNC to protect Staten Island that is the subject of this litigation.

24 **B. DWR’s Obligation to Protect Delta**

25 21. It has long been the stated policy of the State of California to preserve the Delta’s
26 unique resources, including agriculture, recreational assets, fisheries, and wildlife habitats. DWR
27 is the steward of that policy.

28 22. The mission statement of DWR is “[t]o manage and protect the water resources of

1 California in cooperation with other agencies, to benefit the state's people and to protect, restore,
2 and enhance the natural and human environments." Moreover, Fish & Game Code section 1389
3 states that the "preservation and enhancement of riparian habitat shall be a primary concern of . . .
4 all state agencies whose activities impact riparian habitat, including . . . the Department of Water
5 Resources."

6 23. DWR is vested with the authority and obligation to take action in the Delta
7 through numerous statutory and common law requirements. Through the SPCE, DWR confirmed
8 its responsibility to ensure that TNC's management of Staten Island was consistent with the
9 preservation and protection of Staten Island's agricultural and environmental resources.

10 **1. The Delta Reform Act**

11 24. The Sacramento-San Joaquin Delta Reform Act of 2009 was passed in response to
12 the rapidly declining health of the Delta and in recognition that the Delta is a crucial component
13 of California's water supply system.

14 25. The Delta Reform Act created the Delta Stewardship Council and required the
15 Council to develop, adopt, and commence implementation of a Delta Plan that would coordinate
16 state and local agency actions in the Delta. After hundreds of public meetings, thousands of
17 public comments, and numerous revisions, the Delta Plan was published in 2013. It created rules
18 and recommendations to further California's coequal goals for the Delta: "Improve statewide
19 water supply reliability, and protect and restore a vibrant and healthy Delta ecosystem, all in a
20 manner that preserves, protects and enhances the unique agricultural, cultural, and recreational
21 characteristics of the Delta." The Delta Plan contains numerous binding policies to guide DWR's
22 actions in the Delta.

23 26. The Delta Reform Act includes mandates to prioritize state investment in levee
24 infrastructure. California Water Code section 85305 states: "The Delta Plan shall attempt to
25 reduce risks to people, property and state interests in the Delta by promoting effective emergency
26 preparedness, appropriate land uses, and strategic levee investments." California Water Code
27 section 85306 states: "[T]he council, in consultation with the Central Valley Flood Protection
28 Board, shall recommend in the Delta Plan priorities for state investments in levee operation,

1 maintenance, and improvements in the Delta, including both levees that are part of the State Plan
2 of Flood Control and nonproject levees.”

3 27. The Delta Plan was formally adopted by the Delta Stewardship Council on May
4 16, 2013. Its fourteen regulatory policies were approved by the Office of Administrative Law,
5 making them effective as legally enforceable regulations on September 1, 2013. In April 2018,
6 the Delta Plan was amended to include new text and policy for setting priorities for State
7 investments in Delta levees.

8 28. The Delta Plan contains a binding and enforceable policy requiring DWR to
9 prioritize state investments in delta levees and risk reduction. Risk Reduction Policy 1 states:
10 “As DWR selects levee improvement projects for funding through its levee funding programs, it
11 should fund projects at the very high priority islands or tracts . . . then funds for improvements or
12 major rehabilitation of levees on high priority islands and tracts may be provided.” Delta Plan
13 Ch. 7 at 42. Staten Island is considered a High Priority island for levee infrastructure funding.
14 Delta Plan Ch. 7 at 43-44.

15 29. The Delta Plan’s binding and enforceable Risk Reduction Policy 1 further states:
16 “The Department of Water Resources shall certify projects’ consistency with this regulatory
17 policy when its funding decisions are made and shall report annually to the Council about its
18 decisions to award State funds for Delta levee improvements, including the location of each
19 funded improvement, the priority of the affected islands or tracts, the improvements funded,
20 including the relevant levee improvement type, habitat mitigation or enhancement features,
21 estimated reduction in levee fragility, expected reduction in annual fatalities and damages, State
22 funds awarded, and local or federal matching funds.” Delta Plan Ch. 7 at 42.

23 30. Finally, the Delta Plan holds DWR accountable to its actions by requiring it to
24 report to the Delta Stewardship Council anytime its actions vary from the above stated plan,
25 “explain how the funding nevertheless protects lives, property, and the State’s interests in water
26 supply reliability and restoration, protection, and enhancement of the Delta ecosystem while
27 considering the Delta’s unique agricultural, natural, historic, and cultural values.” Delta Plan
28 Ch. 7 at 44.

1 31. Levee maintenance is defined by the Delta Plan as “patrols, surveys and
2 inspections, extermination and control of burrowing animals, work on the levee crown to improve
3 access or drainage, removing vegetation or debris, control of seepage and boils, cleaning drains
4 and toe ditches, restoring rock protection, and maintenance of levee-related habitat improvement
5 sites.” Delta Plan Ch. 7 at 45. Levee rehabilitation and improvement includes raising the levee
6 crown to offset subsidence, flattening waterside slopes, constructing landslide berms, and
7 widening levee crowns.

8 32. DWR is therefore statutorily mandated to apportion funds to Staten Island levee
9 maintenance and rehabilitation, and is accountable for decisions it makes that are not in
10 accordance with the values of the Delta Plan.

11 **2. The Delta Levee Maintenance Subvention Program**

12 33. The Delta Levee Maintenance Subventions Program, established in 1973 and
13 amended in 1988 by the Delta Flood Protection Act, establishes a fund to be managed and
14 distributed by DWR to maintain and upgrade levees in the Delta. Cal. Water Code § 12980 –
15 12985.

16 34. Water Code section 12981(c) states: “The Legislature further finds and declares
17 that funds necessary to maintain and improve the delta’s levees to protect the delta’s physical
18 characteristics should be used to fund levee work that would promote agricultural and habitat uses
19 in the delta consistent with the purpose of preserving the delta’s invaluable resources.”

20 35. DWR is obligated to develop and submit criteria for the maintenance and
21 improvement of private levees to the Water Resources Control Board. Cal. Water Code § 12984.
22 When a local agency completes repair work on a levee, the department is required to inspect the
23 completed work and determine if the work has been satisfactorily completed in accordance with
24 the approved criteria. Cal. Water Code § 12988.

25 36. Therefore, DWR is statutorily mandated to be aware of the condition of private
26 Delta levees, monitor any repair work that is done, and evaluate whether that work has been
27 satisfactorily completed.

28

1 **C. DWR's and TNC's Responsibilities for Staten Island**

2 37. In November 2001, DWR orchestrated the transfer of \$35 million in state ballot
3 proposition funding to TNC to enable TNC to acquire fee title to Staten Island. The California
4 Natural Resources Agency provided \$17.5 million in California Proposition 204 Bond funding to
5 TNC, while DWR provided \$17.5 million in California Proposition 13 Bond funding to TNC.
6 TNC did not contribute any of its own money—the acquisition was funded entirely by
7 California's taxpayers.

8 38. The Proposition 204 and Proposition 13 funds were granted in acknowledgment of
9 the "Multiple and Complementary Benefits" that Staten Island provides to the State of California
10 for: (1) agricultural land preservation, including the economic viability of agricultural operations;
11 (2) wildlife habitat protection; (3) protection of a floodplain area from potential inappropriate and
12 incompatible development; and (4) its potential role in future flood management and water
13 management improvements. Those funding agreements anticipated that TNC would act as a
14 public steward for Staten Island, to improve its agricultural productivity and environmental value.

15 39. To that end, TNC granted an extensive conservation easement back to DWR to
16 provide DWR with broad authority to police TNC's activities on the island and protect this
17 invaluable public and environmental resource.

18 40. The Recipient Agreement under which TNC obtained Proposition 204 funds,
19 specified that "immediately following [TNC]'s purchase of Staten Island, [TNC] will record in
20 the Official Records of San Joaquin County a conservation easement [] which will be held by
21 DWR. The Easement will provide for future uses of Staten Island that will protect the existing
22 agricultural and habitat values of Staten Island." *See Exhibit A*, Proposition 204 Recipient
23 Agreement, Scope of Services at 2.

24 41. Concurrently with obtaining title, TNC did in fact grant to DWR the Staten Island
25 Perpetual Conservation Easement ("SPCE"). *See Exhibit B*.

26 42. The specified intent of the SPCE was to protect each of the Multiple and
27 Complementary Benefits of Staten Island, namely: "1) agricultural land preservation, including
28 the economic viability of agricultural operations; 2) wildlife habitat protection; 3) protection of a

1 floodplain area from potential inappropriate and incompatible development; and 4) potential role
2 in future flood management and water improvement activities.” SPCE p. 2 ¶ 3.

3 43. Under the SPCE, DWR permitted TNC to manage day-to-day operations on Staten
4 Island, including the encouragement and promotion of “wildlife friendly agricultural practices on
5 the Property,” while DWR retained the obligation to oversee Staten Island and to ensure TNC’s
6 actions are in compliance with the twin goals of conservation and sustainable agriculture.

7 44. The SPCE grants DWR the authority to “identify, monitor, research, preserve, and
8 protect forever the natural, ecological, environmental and wildlife features of the Property, to the
9 extent necessary to effectuate the express purposes of this Conservation Easement” and to “enjoin
10 any activity or use of the Property that is inconsistent with the purposes of this Conservation
11 Easement[.]” SPCE p. 3 ¶5 & 4 ¶ 1. DWR is authorized to “enforce the restoration of such areas
12 or features of the Property that may be damaged by any activity or use of the Property which is
13 inconsistent with the terms of this Conservation Easement.” SPCE p. 4 ¶ 1.

14 45. DWR drafted, executed, and kept 100% ownership of the SPCE, exclusively
15 reserving to itself wholly the enforcement authority thereof. DWR’s sole ownership and
16 authority under the SPCE confirmed DWR’s custodial obligations to the public trust to protect the
17 long-term sustainability of Staten Island’s agricultural productivity and natural resource value.
18 Since 2001, DWR has had the authority and obligation to ensure that TNC’s occupancy of Staten
19 Island sustainably maintains Staten Island’s long-term agricultural and environmental
20 productivity.

21 46. By its acquisition of Staten Island and execution of the SPCE, TNC also took on
22 the obligation to preserve and enhance the Multiple and Complementary Benefits and to refrain
23 from engaging in any activities that would result in diminishing the long-term agricultural
24 productivity of Staten Island.

25 47. Under the unusual arrangement that gifted Staten Island to TNC, an environmental
26 non-profit organization, TNC was also expected to reinvest any profits from its farming activities
27 into the conservation and protection of Staten Island. The Recipient Agreement requires that
28 TNC “will use net revenues received from the farming activities on Staten Island to support

1 ongoing operations, habitat management and/or improvements associated with [TNC]'s Delta
2 Project." Recipient Agreement, Scope of Services at 2. This obligation continues perpetually
3 along with the obligations contained in the conservation easement.

4 **D. The Mismanagement of Staten Island by DWR and TNC**

5 48. Far from protecting and preserving Staten Island, DWR and TNC have managed
6 Staten Island in an unsustainable, environmentally destructive way. Most significantly, TNC and
7 DWR have annually elected to plant sub-irrigated corn crops on almost the entirety of Staten
8 Island, which, upon information and belief, has and continues to cause rapid subsidence of Staten
9 Island organic soils.

10 49. Subsidence is the degradation, sinking, and loss of soil. It is the result of microbial
11 decomposition of oxygenated organic soils, causing soil loss and lowered field elevations. The
12 presence of oxygen in the soil, which is introduced when the soil is tilled before planting, causes
13 organic soil or peat to oxidize and subside. The Delta Plan recognizes that oxidation and
14 subsidence is a serious problem throughout the Delta:

15 The reclamation of Delta islands and their cultivation for
16 agriculture initiated a process of land subsidence, mostly due to
17 oxidation of peat soils, but also from wind erosion. . . . Over time,
18 long-term oxidation reduced about 2.6 to 3.3 billion cubic yards of
19 these peaty soils to small particles and gases. As a result, much of
20 the central Delta today is below sea level, with some islands 12 to
21 15 feet below sea level. Many islands now more closely resemble
22 bowls surrounded by water, with high sides defined by levees and
23 deep, hollowed-out bases. Although subsidence has slowed in some
24 areas, other regions of the Delta continue to lose soil to oxidation
25 and wind erosion at a rate of 5 to 15 tons/acre/year. It is projected
26 that some areas of the Delta could subside an additional 2 to 4 feet
27 by 2050 (Deverel and Leighton 2010), resulting in the loss of up to
28 350 to 500 million cubic yards of soil at a rate of 5 to 15
29 tons/acre/year (see Figure 5-4).

30 Delta Plan at 184. This soil loss damages agricultural resources in the Delta.

31 50. In turn, soil subsidence in the Delta diminishes the stability and integrity of the
32 levees which surround the land. As the Delta Plan recognized, by lowering interior elevations
33 and resistance to hydraulic water pressure from adjacent channels, subsidence directly contributes
34 to levee failure and increased water seepage into the land on Delta islands.

35 51. The scientific consensus, based on studies DWR itself has conducted, is that

1 cultivating sub-irrigated corn causes oxidative subsidence and lowered land elevations. Scientific
2 consensus also recognizes that land subsidence can be halted, or even reversed through the
3 cultivation of surface-irrigated crops such as alfalfa and shallowly-flooded crops such as rice.
4 Rice cultivation also supports a range of Delta wildlife, especially migratory birds who feed on
5 the waste grain.

6 52. Upon information and belief, DWR and TNC are well aware of this science. Yet,
7 whether out of negligence or inertia, and in violation of their duties to protect Staten Island's
8 agricultural and wildlife resources, as well as the security of its levees, DWR has allowed TNC to
9 continue growing sub-irrigated corn year after year on Staten Island.

10 53. The impact of growing sub-irrigated corn almost exclusively on Staten Island for
11 many years has had a profound and negative impact on Staten Island. Comparing U.S.
12 Geological Survey 1977 measurements of Staten field elevations with 2007 DWR Lidar
13 measurements demonstrates that, during that 30-year period, oxidative subsidence resulted in
14 more than 30 million cubic yards of Staten Island soil loss and up to 36 inches of lowered
15 elevations. That amount of subsidence has greatly increased Staten Island seepage and greatly
16 decreased Staten Island levee integrity. *See Exhibit C.*

17 54. In December 2017, DWR conducted Delta-wide Lidar measurements, which have
18 not yet been made public. On information and belief, comparing the 2007 and 2017 Lidar
19 measurements will show that, due to the inexplicable and continued planting of sub-irrigated
20 corn, Staten Island subsidence during TNC's 16-year occupancy has resulted in more than 12
21 million cubic yards of soil loss.

22 55. As of 2007, subsidence on Staten Island had already resulted in a 22% increase of
23 channel water pressure against the levees surrounding the island. Today, upon information and
24 belief, because of DWR's and TNC's mismanagement and the continued cropping of sub-
25 irrigated corn, channel water pressure against Staten Island levees has worsened.

26 56. Upon information and belief, Staten Island's levees are inadequate and
27 insufficiently maintained. Oxidative subsidence has lowered field elevations, increasing channel
28 water seepage and increasing levee liquefaction. This is demonstrated by the increasing

1 frequency of “boils” on levee interior slopes requiring increased emergency actions such as
2 “cofferdams” and “levee coring.”

3 57. The U.S. Army Corps of Engineers publishes standards for levee safety pursuant
4 to Public Law 84-99, 33 U.S.C. § 701n (Flood Control and Coastal Emergency Act). The
5 standards require that levees maintain 4:1 to 5:1 slope ratios, depending on negative field
6 elevations compared to levee crowns. Because of continuing Staten Island subsidence, current
7 Staten Island interior slope ratios have fallen considerably below the U.S. Army Corps of
8 Engineers standards. *See Exhibit D.*

9 58. Upon information and belief, Staten Island is also experiencing visible water
10 seepage from the surrounding channel waters into the agricultural land, diminishing the
11 agricultural productivity of the land.

12 59. Additionally, on information and belief, Staten Island’s drainage system has been
13 allowed to degrade, resulting in soil salts accumulation and increased risk of levee failure.

14 60. The natural resources of Staten Island, and the safety and security of both Staten
15 Island and its neighboring Delta islands, are at great risk if management of the island continues
16 according to the current trajectory. Upon information and belief, Staten Island now faces
17 heightened danger of permanent flooding. If Staten Island were to flood entirely, not only would
18 agricultural lands be lost, but also a large portion of the Sandhill crane roosting habitat, causing
19 great harm to that species.

20 61. These harms and future dangers are a direct result of DWR’s failure to monitor,
21 protect and invest in Staten Island, as required by statute. They are compounded by TNC’s
22 failure to reinvest profits from farming operations into the protection of Staten Island, in violation
23 of its contractual commitment to do so.

24 62. On information and belief, TNC has generated approximately \$21 million in net
25 profits on Staten Island. Despite the prohibitions in the Proposition 204 Recipient Agreement,
26 TNC has diverted approximately \$14.5 million of those cash profits to TNC headquarters’
27 purposes, rather than to needed Staten Island maintenance.

28 63. Despite the above mentioned statutory requirements to increase Delta levee

1 security, DWR allowed TNC to extract \$14.5 million of Staten Island farming profits, rather than
2 investing those profits in sustainable levee maintenance.

3 **E. The Delta, Staten Island and its Wildlife are Public Trust Resources.**

4 64. DWR is obligated by the common law public trust doctrine to prevent the
5 degradation of California's valuable natural resources. The public trust doctrine imposes limits
6 and obligations on the State of California and its agencies. It is an affirmation of the duty of state
7 power to use public funds to protect public resources.

8 65. The Delta, Staten Island, its riparian habitat and the many forms of wildlife that
9 call it home, are all public trust resources that DWR is duty-bound to protect. That is so even
10 though DWR has conscripted TNC into serving as the nominal owner of Staten Island.

11 66. Under the public trust doctrine, DWR has the continuing duty to protect and
12 preserve Staten Island, its riparian habitat, and its wildlife for the people of California by
13 preventing levee breaches and flooding of the island and by stopping and reversing soil
14 subsidence.

15
16 **FIRST CAUSE OF ACTION**
17 **FOR WRIT OF MANDATE**

18 **(Against Respondent/Defendant California Dept. of Water Resources)**

19 67. The preceding paragraphs of this complaint are incorporated by reference
20 as though fully set forth herein.

21 68. DWR is under a clear and present duty, pursuant to the Delta Reform Act,
22 the Delta Plan, the California Water Code, and the California Fish & Game Code, to "protect and
23 restore a vibrant and healthy Delta ecosystem [] in a manner that preserves, protects and enhances
24 the unique agricultural, cultural and recreational characteristics of the Delta." This is consistent
25 with DWR's mission statement. DWR is under a clear and present duty, pursuant to Water Code
26 section 85305, to promote "strategic levee investments." DWR is further under a clear and
27 present duty, under Delta Plan Risk Reduction Policy 1, to fund levee improvements for high
28 priority islands and tracts, including Staten Island, and certify compliance with and projects'

1 consistency with this regulatory policy, and to report any variance from the Delta Plan. DWR is
2 further under clear and present duty, pursuant to the Delta Levee Maintenance Subvention
3 Program, Water Code section 12980 *et seq.*, to oversee repair work on levees, and inspect and
4 confirm satisfactory completion of such work. DWR is further under a clear and present duty,
5 pursuant to section 1389 of the Fish & Game Code, to treat “preservation and enhancement of
6 riparian habitat” as a “primary concern” of DWR’s work. Finally, DWR is under a clear and
7 present duty to protect the Multiple and Complementary Benefits of Staten Island, including
8 agricultural land preservation, wildlife habitat protection, floodplain protection and water
9 improvement activities. DWR’s understanding and acknowledgement of these duties is found in
10 the SPCE, which specifically authorized DWR to “enjoin any activity or use of [Staten Island]
11 that is inconsistent with the purposes of this Conservation Easement,” and to “enforce the
12 restoration of such areas or features of the Property that may be damaged by any activity or use of
13 the Property which is inconsistent with the terms of this Conservation Easement.”

14 69. DWR has failed to carry out these legal obligations; by failing to
15 adequately fund, monitor, and protect Staten Island’s levees; by failing to ensure sustainable
16 agricultural practices on Staten Island; by ignoring TNC’s repeated failures to maintain Staten
17 Island drainage systems, thereby allowing channel water salts to accumulate in the topsoil and
18 degrade agricultural sustainability; by failing to make protection of riparian habitat a primary
19 concern; by allowing TNC to engage in conduct on Staten Island that has resulted in significant
20 and dangerous soil subsidence, water seepage and a dangerously weakened levee system; and by
21 allowing TNC to extract \$14.5 million of Staten Island farming profits, rather than investing those
22 profits in Staten Island’s sustainable maintenance.

23 70. WPF is beneficially interested in the environmental health and well-being
24 of Staten Island, and in DWR taking necessary actions to preserve Staten Island as both a
25 sustainable agricultural area and a wildlife habitat.

26 71. WPF has no plain, speedy, or adequate alternative remedy in the ordinary
27 course of law except as DWR is compelled by this Court to act.

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SECOND CAUSE OF ACTION
DESTRUCTION OF PUBLIC TRUST NATURAL RESOURCES

(Against Defendant California Dept. of Water Resources)

72. The preceding paragraphs of this complaint are incorporated by reference as though fully set forth herein.

73. The public trust doctrine is the longstanding principle of preserving the public's interest through preservation and wise use of natural resources.

74. The Delta Reform Act recognizes that "[t]he longstanding constitutional principle of reasonable use and the public trust doctrine shall be the foundation of state water management policy and are particularly important and applicable to the Delta." Cal. Water Code § 85023.

75. The natural environment and resources of the Delta and of Staten Island (including its riparian habitat and its wildlife) specifically are public trust resources held in trust by the state as trustee for the people of California. As stated in the SPCE, the multiple and complementary benefits Staten Island provides to the State of California include: (1) agricultural land preservation, including the economic viability of agricultural operations; (2) wildlife habitat protection; (3) protection of a floodplain area from potential inappropriate and incompatible development; and (4) its potential role in future flood management and water management improvements.

76. DWR is causing and participating in the degradation of Staten Island, its adjacent waterways and its riparian and wildlife habitat, and—by failing to address the ongoing degradation of Staten Island, threatening the long-term health and habitat of wildlife. Among other acts, DWR has approved the harmful subsidence-causing farming of sub-irrigated corn crops; failed to protect Staten Island's levees from tidal pressure and liquefaction; failed to require TNC to maintain Staten Island drainage systems; and allowed TNC to divert \$14.5 million in agricultural profits away from Staten Island maintenance.

77. In order to fulfill its obligation to preserve public trust resources, DWR must be enjoined and ordered to act as specified in the Prayer for Relief.

THIRD CAUSE OF ACTION
PUBLIC NUISANCE

(Against Defendants The Nature Conservancy and California Dept. of Water Resources)

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4 78. The preceding paragraphs of this complaint are incorporated by reference as
5 though fully set forth herein.

6 79. DWR and TNC owe a duty to the people of the State of California to conserve the
7 agricultural productivity and environmental value of Staten Island, and to prevent the flooding of
8 Staten Island.

9 80. TNC's operations on Staten Island have caused the cumulative oxidative loss of
10 more than 12 million cubic yards of topsoil through subsidence, which has greatly reduced the
11 agricultural productivity of the island.

12 81. Upon information and belief, TNC's farming activities have not been consistent
13 with proper and accepted customs and standards.

14 82. TNC's and DWR's conduct on Staten Island has also weakened and damaged
15 Staten Island's levees. TNC's and DWR's failure to properly maintain levee integrity on Staten
16 Island has increased channel water seepage through levee bases, thereby increasing the risk of
17 complete flooding of the island.

18 83. TNC and DWR's actions on Staten Island have caused substantial and
19 unreasonable interference with WPF's enjoyment of Staten Island and its wildlife habitat, and the
20 quiet enjoyment of WPF's wetland activities on adjacent Brack Tract. Their actions threaten to
21 destroy the long-term viability of the island, which would be harmful to both WPF and the public
22 at large.

23 84. As a result, WPF's mission of preserving the sustainability of Delta wetlands has
24 been endangered.

25 85. The nuisance caused by TNC and DWR is ongoing and continuous.

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PRAYER FOR RELIEF

WHEREFORE, Petitioners and Plaintiffs pray for relief as follows:

1. On the First Cause of Action, for alternative and peremptory writs of mandate commanding DWR to:
 - a. Ensure the adequate maintenance of levees on Staten Island;
 - b. Take appropriate actions to halt and reverse soil subsidence on Staten Island, for example by mandating the planting of economically and ecologically sustainable crops (such as rice or alfalfa) instead of sub-irrigated corn; and
 - c. Prioritize riparian habitat in the management and oversight of Staten Island.
2. On the Second Cause of Action, for injunctive relief requiring DWR to cease degrading and endangering public trust resources, including Staten Island, its adjacent waterways, its riparian and wildlife habitat, and the wildlife that utilize Staten Island.
3. On the Third Cause of Action, for injunctive relief requiring DWR and TNC to
 - a. Cease farming any part of Staten Island with sub-irrigated corn or other crops that result in peat soil oxidation and continuing subsidence of Staten Island field elevations;
 - b. Increase the levee slopes on Staten Island to at least 4:1 to comply with PL 84-99;
 - c. Take other reasonable and appropriate measures to shore up and protect Staten Island's levees;
 - d. Maintain the Staten Island drainage systems in order to prevent the accumulation of channel water salts, water seepage and levee liquefaction; and
 - e. Re-invest any farming profits obtained through farming on Staten Island into the protection and maintenance of Staten Island.
4. For costs of the suit;
5. For attorneys' fees pursuant to Code of Civil Procedure section 1021.5; and
6. For such other and further relief as the Court deems just and proper.

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Dated: July 23, 2018

KEKER, VAN NEST & PETERS LLP

By: 

JOHN KEKER
DANIEL PURCELL
WARREN BRAUNIG
DIVYA MUSINIPALLY

Attorneys for Wetlands Preservation
Foundation

Dated: July 23, 2018

DOWNEY BRAND LLP

By: 

JAMES M. MORRIS
ASHLEY M. BOULTON

Attorneys for Wetlands Preservation
Foundation

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VERIFICATION

I, Dean Cortopassi, hereby declare:

I am Chief Executive Officer of the Wetlands Preservation Foundation, a non-profit corporation with its main office in Stockton, California. I have read the foregoing VERIFIED PETITION FOR WRIT OF MANDATE AND COMPLAINT FOR INJUNCTIVE RELIEF and am familiar with its contents. The facts alleged in it are true to my personal knowledge and belief.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct and that this verification is executed on this 23rd day of July 2018 at Stockton, California.

Dean A. Cortopassi

Exhibit A

RECIPIENT AGREEMENT
Contract # 01-N23

Section One: Purpose of Contract

- A. This Recipient Agreement ("Agreement") is entered into on 27 Sept 01 between the National Fish and Wildlife Foundation, a nonprofit organization (hereinafter referred to as "NFWF") and The Nature Conservancy, a District of Columbia nonprofit corporation (hereinafter referred to as "Contractor") for the project designated as Staten Island Acquisition. For purposes of this Agreement NFWF and Contractor are collectively referred to herein as "Parties".
- B. The actions that are the subject of this Agreement are being undertaken by the Contractor pursuant to a grant of funds from the California Resources Agency (hereinafter referred to as "Resources Agency" or "Agency") through the CALFED Bay-Delta Program for the purpose of implementing the CALFED Ecosystem Restoration Program. The acquisition of that certain real property located in San Joaquin County commonly known as Staten Island (the "Property") by Contractor and continued management of the Property for agricultural purposes in the manner contemplated by this Agreement will preserve agricultural land, protect wildlife habitat, and protect this floodplain area from inappropriate or incompatible development.
- C. Contractor shall perform work under this Agreement in accordance with the Scope of Services (hereinafter referred to as "Scope of Services"). The Scope of Services for this project is attached as Exhibit A and incorporated herein by this reference, and the Budget (hereinafter referred to as "Budget") is attached as Exhibit B and incorporated herein by this reference.

Section Two: Background

The Resources Agency has designated the CALFED Bay-Delta Program or its successor (hereinafter referred to as "CALFED") as Program Administrator of the *Agreement Regarding CALFED Ecosystem Restoration Program Funds Between the California Resources Agency, CALFED and the National Fish and Wildlife Foundation* ("NFWF/Agency/CALFED Agreement"), and has designated the Department of Water Resources ("DWR") as its fiscal agent for tracking of Proposition 204 Ecosystem Restoration Program funds and for payment of invoices under this Agreement. For purposes of this Agreement, Agency and DWR are collectively referred to herein as "State".

Concurrent with this Agreement, Contractor and DWR have entered into a written agreement ("TNC/DWR Agreement") providing for a portion of the acquisition funds necessary to fund Contractor's acquisition of the "Property, as such transaction is described in more detail in the Scope of Services.

As described in the NFWF/Agency/CALFED Agreement, NFWF is designated as the Contract Administrator for the projects assigned to NFWF by CALFED, including the project which is the subject of this Agreement.

This Agreement is made in accordance with funds appropriated for Ecosystem Restoration Program activities referenced in Chapter 7 of Division 24 of the California Water Code, beginning with Section 78684, entitled CALFED Bay-Delta Ecosystem Restoration Program.

As used in this Agreement, "CALFED" means the CALFED Bay-Delta Program, which includes joint state and federally-funded Director and interagency staff coordinating the efforts of state and federal agencies to implement the long-term Plan for the Bay-Delta described in the CALFED Programmatic Record of Decision, dated August 28, 2000.

NFWF is a non-profit conservation organization established by an Act of Congress (P.L. 98-244, as amended 16 U.S.C. 3701, et seq.) whose purpose is to encourage, accept and administer private gifts for the benefit of, or in connection with, the activities and services of the U.S. Fish and Wildlife Service, and to undertake and conduct such activities, including the administration of grant programs and contract administration, as will further the conservation and management of fish, wildlife, and plant resources.

Section Three: Communication

All communications between the Parties should be directed to the individuals named below:

- A. The designated contract manager for NFWF ("Contract Manager") is listed below. The Contract Manager may be changed at any time by NFWF with advance written notice thereof to the Contractor.

Name: Gillian Harris
Address: 28 Second St., 6th Floor, San Francisco, CA, 94105
Phone: 415-778-0999
Fax: 415-778-0998
e-mail: harris@nfwf.org

- B. The designated project manager for the Contractor ("Project Manager") is listed below. The Project Manager may be changed at any time by the Contractor with advance written notice thereof to NFWF.

Name: Michael R. Eaton
Address: 13501 Franklin Blvd.
Phone: (916) 683-1699
Fax: (916) 683-1702
e-mail: meaton@cosumncs.org

Section Four: Term of Contract

The term of the Agreement shall commence on February 1, 2001, and terminate on January 31, 2004. The Agreement shall not become effective until fully executed by the Parties.

Section Five: Contract Amount and Payment Provisions

A. Contract Amount: The total maximum payable under this Agreement shall not exceed \$17,555,437.00, and shall be disbursed by DWR pursuant to the Scope of Services and the Budget.

B. Payment Provisions:

1. Required Documentation:

No funds will be disbursed by DWR to Contractor without:

- a. an executed copy of the Agreement;
- b. receipt by NFWF of an original invoice with supporting documentation; and
- c. receipt by NFWF, and satisfactory completion by Contractor of, or progress toward completion of, deliverables and/or phases of work as set forth in the Agreement, Scope of Services, and Task Orders, including quarterly financial and programmatic reports.

Payments shall be made on undisputed invoices after receipt and approval by NFWF of a properly itemized invoice for completion of work as set forth in the Budget and Task Orders.

Invoices shall be submitted to NFWF by Contractor no more frequently than monthly in the format required by CALFED and shall be submitted in triplicate to:

Gillian Harris
National Fish and Wildlife Foundation
28 Second Street, 6th Floor
San Francisco, CA 94105

2. Disputes: If there are any disputes regarding an invoice, NFWF shall notify the Contractor within 15 business days of receipt of a properly submitted invoice. Any disputed item will be subtracted from the invoiced amount and the undisputed portion of the invoice will be forwarded to DWR for payment. Resolution of any disputed amount in a submitted invoice will follow the procedure outlined in Section Eight, and upon such resolution, NFWF will forward to DWR for payment the outstanding amount due under such disputed invoice, as resolved by the Parties pursuant to Section Eight.
3. Payment Schedule and Performance Retention: Disbursements shall be made on the basis of costs incurred to date. Payments shall be made to Contractor by DWR

in arrears within 45 days of receipt of an undisputed invoice by NFWF. NFWF shall forward each undisputed invoice received from Contractor to CALFED for approval within 15 days of receipt of same by NFWF. Required supporting documentation for each invoice submitted to NFWF by Contractor will include an invoice breakdown by task and line item, including task and line item budget balance. Additional supporting documentation such as payroll detail, receipts for equipment, or general ledger information may be required NFWF.

All disbursements, except for those relating to land and mineral acquisition costs (including all due diligence, closing and escrow costs and expenses relating thereto), shall be subject to 10% retention. Disbursement of the ten percent retention shall be made upon the earlier of: (1) the Contractor's satisfactory completion of a discrete project task, at which time the ten percent retention for the completed task will be disbursed; or (2) completion of the project and Contractor's submission of final programmatic and fiscal reports, as defined in Task Orders, at which time all remaining undisbursed ten percent retention for all Task Orders will be disbursed.

Invoices shall be reviewed by NFWF, forwarded to CALFED for review and approval, and paid by DWR. NFWF is responsible for reviewing all project deliverables.

Should NFWF determine that performance on the Agreement or a Task Order is not satisfactory, then DWR shall withhold further payments for the disputed item under that relevant Task Order until performance is satisfactory to NFWF or the dispute is otherwise resolved in accordance with Section Eight.

4. Expenditure of Funds & Allocation Among Budget Items: Contractor shall expend funds in the manner described in the approved Budget. As long as the total contract amount does not increase, the Contractor may adjust (1) the Budget between individual tasks by no more than 10% and (2) the Budget between individual line items within a task by no more than 10%. Any other variance in the budgeted amount among tasks; or between line items within a task, requires approval in writing by CALFED or NFWF. The total amount to be funded to Contractor under this Agreement may not be increased except by amendment of this Agreement. Any increase in the funding for any particular Budget item shall mean a decrease in the funding for one or more other Budget items unless there is a written amendment to this Agreement.

Section Six: Performance Responsibilities and Task Orders

- A. Subcontracts: Contractor is responsible for all subcontracted work. Subcontracts must include all applicable terms and conditions as presented herein. An approved sample subcontract is attached as Exhibit C. Contractor must obtain NFWF's approval prior to

entering into any subcontract that will be funded under this Agreement, which approval shall not be unreasonably withheld if (1) contracted work is consistent with the Scope of Services and the Budget; and (2) the subcontract is in writing and in the form attached to this Agreement as Exhibit C. Contractor must subsequently provide NFWF with a copy of the signed subcontract. Contractor must (a) obtain at least 3 competitive bids for all subcontracted work, or (b) provide a written justification explaining how the services are being obtained at a competitive price and submit such justification to NFWF with copy of the signed subcontract.

Notwithstanding the foregoing, the CALFED Program has acknowledged that the Contractor generally does not use a subcontract for routine land appraisals, surveys, and hazardous materials reports. For these one-time services, Contractor uses a group of vendors on a regular basis and pays no more than fair market value for such services by one-time invoice rather than written contract. Contractor will not be required to obtain competitive bidding for such services or to provide any further justification to NFWF.

B. Recipient Task Orders: In general, work shall be accomplished through one or more Recipient Task Orders ("Task Orders"). A list of the elements that should be included in each Task Order is attached as Exhibit D. In many cases, Task Orders will be written after this Agreement has been signed. In that case, the Scope of Services will function as the general framework within which each Task Order will provide the details. Task Orders will be written as each phase of work is ready to proceed, and the detailed schedule, budget, and scope of services are known.

1. Each Task Order will authorize specific work governed by an agreed upon scope, budget, schedule, project deliverables, and a line-item cost estimate broken down by task and subtask.
2. The Project Manager will submit draft Task Orders to NFWF for review. NFWF will review the Task Orders in a timely manner and respond to the Project Manager with any proposed revisions. After agreement is reached on any modified items, the final Task Order will be submitted to CALFED by NFWF for final approval. Each Task Order shall be effective when signed by Contractor, NFWF and CALFED. Following execution of a Task Order, the Contractor shall comply with all terms and conditions of such Task Order.
3. Work shall not commence and expenditures are not authorized until a Task Order for that work has been approved by CALFED.
4. By mutual agreement, the Parties may modify the Task Orders in accordance with Section Seven.

Section Seven: Amendments

By mutual agreement, NFWF and Contractor may amend this Agreement and any Task Order in writing. Contractor shall submit a written request for amendment to NFWF, and NFWF may approve any amendment that involves (a) cumulative time extension of up to nine months, (b) changes in the Scope of Services that will not alter the final outcome of the project, and/or (c) budget increases not to exceed a total of \$25,000. Any proposed amendment that involves any modification that is not described in the immediately preceding sentence shall require the approval of CALFED, and NFWF shall submit such proposed amendment to CALFED for approval promptly upon receipt of same by NFWF. Any amendment shall not be effective until NFWF, and with respect to any amendment, that requires CALFED approval, CALFED, provides written approval of the proposed amendment. Work completed prior to execution of a written amendment is done at Contractor's risk, without expectation or obligation of reimbursement.

Section Eight: Disputes

Dispute Resolution: Any claim that Contractor may have regarding the performance of this Agreement including, but not limited to, claims for additional compensation or extension of time, shall be submitted to NFWF within thirty days of its accrual. NFWF and Contractor shall then attempt to negotiate a prompt resolution of such claim, in consultation with CALFED, and process an amendment to this Agreement to implement the terms of any such resolution.

Section Nine: Monitoring, Reporting, Review

- A. **Ecological Monitoring:** Before commencing contract work that requires Ecological Monitoring, Contractor shall prepare an Ecological Monitoring Plan ("EMP") incorporating a Quality Assurance Project Plan ("QAPP") which will be submitted through NFWF to CALFED for review and approval. CALFED shall have 30 days to review and approve, and if CALFED does not disapprove in writing of a proposed EMP within 30 days of receipt, the EMP shall be deemed to have been approved. At a minimum, the EMP shall include the following items: objectives of the monitoring; questions to be addressed through monitoring; personnel conducting the monitoring and related experience; duration of monitoring (e.g. one year, three years, but no longer than the term of this Agreement) constituents to be monitored, locations and frequency of measurement; and reporting formats. At a minimum, the QAPP should include number and type of quality control samples; preservation, storage, and analytical techniques; and data synthesis and analysis. Whenever possible, standard methods shall be incorporated and referenced in the plans. The Contractor shall submit annual monitoring reports presenting findings and addressing whether monitoring objectives have been achieved. Data shall be available in an electronic format and shall be available for transfer to a storage system of CALFED's choice.
- B. **Reporting:** The Contractor shall provide quarterly reports to NFWF. These reports are due prior to the 10th day of the month following the end of each calendar quarter (i.e., due by January 10, April 10, July 10, and October 10). The format of and specific required

reporting information for the quarterly reports are attached as Exhibit E. Each quarterly report should be provided in hard copy and electronically.

- C. Program Review Presentations: As necessary, the Contractor will be asked to make oral presentations at annual review meetings and/or a reasonable number of other meetings. The purpose of the meetings is to effectively monitor the progress and utility of the projects, and to share information among all the CALFED recipients.
- D. Environmental Documentation: It is the Contractor's responsibility to satisfy all applicable local, state, and federal environmental laws and regulations (including the California Environmental Quality Act (California Public Resource Code Section 21000 et. seq.) ("CEQA") and the National Environmental Policy Act (42 U.S.C Section 4321 et. seq.) ("NEPA")) and to obtain all necessary environmental and other permits, approvals, and licenses. The Contractor must submit copies of all final permits, licenses, and approvals necessary for the project to NFWF, prior to undertaking any work requiring such permits, licenses, and approvals. If work is to take place on property not under the control of the Contractor, then prior to proceeding with such work, the Contractor shall provide to NFWF evidence of Contractor's receipt of the advance written consent of the landowner to such work.
- E. Peer Review: As necessary, CALFED may establish peer review panels to review and comment on the Contractor's work products or deliverables.

Section Ten: Standard Contracting Requirements

- A. Rights in Data: All data and information obtained and/or received under this Agreement shall be publicly disclosed only in accordance with California law. All appraisals, purchase and sale agreements and other information regarding pending transactions shall be treated as confidential and proprietary until the transaction is closed. Contractor shall not sell or grant rights to a third party who intends to sell such data or information as a profit-making venture.

Contractor shall have the right to disclose, disseminate and use, in whole or in part, any final form of data and information received, collected, and/or developed under this Agreement, subject to inclusion of appropriate acknowledgment of credit to the State, NFWF, to the CALFED Program, and to all cost-sharing partners for their financial support. Contractor must obtain prior approval from CALFED to use draft data. Permission to use draft data will not be unreasonably withheld. CALFED will not disseminate draft data, but may make draft data available to the public upon request with an explanation that the data has not been finalized.

- B. Acknowledgment of Credit: Contractor shall include appropriate acknowledgment of credit to the State, NFWF, to the CALFED Program, and to all cost-sharing partners for their financial support when using any data and/or information developed under this

Agreement.

C. Use of Products Made by Convict, Child, etc, Labor.

1. Contractor certifies that no foreign-made equipment, materials, or supplies furnished to the State pursuant to this Agreement will be produced in whole or in part by forced labor, convict labor, or indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. The Contractor agrees to comply with the requirements of Public Contract Code Section 6108.
2. Any contractor contracting with the State, including the Contractor, who knows or should have known that the foreign-made equipment, materials or supplies furnished to the State were produced in whole or in part by forced labor, convict labor or indentured labor under penal sanction, when entering into a contract pursuant to the above, may subject to Public Contract Code Section 6108, Subdivision (c), have any or all of the following sanctions imposed:
 - a) The contract under which the prohibited equipment, materials or supplies were provided may be voided at the option of the State agency to which the equipment, materials, or supplies were provided.
 - b) The contractor may be assessed a penalty which shall be the greater of one thousand dollars (\$1,000) or an amount equaling 20 percent of the value of the equipment, materials or supplies that the State agency demonstrates were produced in violation of Public Contract Code section 6108(a).
 - c) The contractor may be removed from the bidder's list for a period not to exceed 360 days.

D. Standard of Professionalism: Contractor shall conduct all work consistent with the professional standards of the industry and type of work being performed under the Agreement.

E. Expiration of Agreement: Should the NFWF/Agency/CALFED Agreement expire, NFWF's role, responsibilities, and benefits under this Agreement shall be assumed by Agency or its designee. At that time, Agency shall notify the Contractor of which party has assumed or been delegated the obligations of NFWF under this Agreement.

F. Audit: The Contractor shall be responsible for ensuring the accuracy and propriety of all records related to the Agreement and shall maintain all supporting documentation for purposes of compliance with this Agreement for a period of three years following the

completion of this Agreement. Upon 10 days notice from NFWF, the Contractor shall cooperate fully with any audit of its records relating to this Agreement conducted by NFWF and shall permit access as may be necessary to conduct such audits. In addition, the contracting parties shall be subject to the examination and audit of the Bureau of State Audits for a period of three years after final payment under this Agreement.

- G. Indemnification: The Contractor agrees to indemnify, defend, and save harmless the CALFED agencies, the State of California, the Agency, DWR, and NFWF and their officers, agents, and employees from any and all claims and losses accruing or resulting to any or all contractors, subcontractors, material persons, laborers, and any other person, firm, or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm, or corporation who may be injured or damaged by the Contractor in the performance of this Agreement, provided, that Contractor shall have no indemnification obligations under this paragraph to the extent that any claim or loss is caused by the gross negligence or willful misconduct of the party seeking indemnification.
- H. Independent Status: Contractor, and the officers, agents, and employees of Contractor, in the performance of the Agreement, shall act in an independent capacity and not as officers or employees or agents of NFWF, CALFED, Agency, or DWR.
- I. Default and Remedies:
1. In the event of Contractor's breach of any of Contractor's obligations under this Agreement, NFWF shall deliver to Contractor written notice which shall describe the nature of such breach (the "Default Notice"). If Contractor has not cured the breach described in a Default Notice prior to the expiration of the twenty (20) day period immediately following Contractor's receipt of such Default Notice, or, in the event the breach is not curable within such twenty (20) day period, Contractor fails to commence and diligently proceed with such cure within such twenty (20) day period, then Contractor shall be deemed to be in default under this Agreement, and NFWF shall have the right, after receiving approval from CALFED, to terminate this Agreement by delivering to Contractor a written notice of termination, which shall be effective immediately upon receipt by Contractor (the "Termination Date"). Upon and following the Termination Date, NFWF shall be relieved of the obligation under this Agreement to make any payments to Contractor for any work that has been performed prior to the Termination Date; however, NFWF shall continue to be obligated to make any payments to Contractor for work properly performed and invoiced in accordance with the terms and conditions of this Agreement prior to the Termination Date. In no event shall Contractor be required to refund to NFWF, CALFED, the Agency or DWR any of the funds that have been forwarded to Contractor under this Agreement, except as provided in Section 10.1.2 below.

2. In the event of any termination of this Agreement by NFWF pursuant to Section 10.1.1 above prior to close of escrow of Contractor's acquisition of the Property NFWF's sole remedy shall be to obtain the return of those funds that have been forwarded to Contractor under this Agreement to fund Contractor's acquisition of the Property.
- J. Assignment: Contractor may not assign this Agreement, in whole or in part, without the written consent of NFWF.
- K. Time of Essence: Time is of the essence in this Agreement.
- L. Integration Clause: No alteration or variation of the terms of this Agreement shall be valid unless made in writing and signed by the Parties hereto, and no oral understanding or agreement not incorporated herein shall be binding on any of the Parties hereto.
- M. Consideration: The consideration to be paid Contractor as provided in this Agreement, shall be in compensation for the performance by the Contractor of Contractor's obligations under this Agreement.

Section Eleven: Additional Real Property Terms

- A. Mitigation: The Contractor shall not use or allow the use of any portion of the real property acquired pursuant to this Agreement for mitigation to compensate for adverse changes to the environment elsewhere, except as approved by CALFED.
- B. Fair Market Value: The purchase price of any interest in real property purchased under this Agreement shall not exceed the fair market value as established by an appraisal approved by the State.
- C. Use, Management, Operation, and Maintenance: The Contractor shall use, manage, operate, and maintain the real property in a manner consistent with the purpose of the acquisition. The Contractor further assumes all management, operation, and maintenance costs associated with the real property, including the costs of ordinary repairs and replacements of a recurring nature, and costs of enforcement of regulations. The State shall not be liable for any cost of such management, operation, or maintenance which is not expressly set forth in the Scope of Services and/or the Budget attached to this Agreement, as amended from time to time in accordance with this Agreement.
- D. Transfer: During the term of this Agreement, Contractor may not transfer the Property, or any interest in the Property, in whole or in part, except in accordance with the transfer provisions contained in the conservation easement ("Easement") between Contractor and DWR in the form attached hereto as Exhibit E, which will be recorded in the Official

Records of San Joaquin County immediately following Contractor's acquisition of the Property.

- E. Agricultural Use of Property, Approval for Change of Use. The uses of the Property following Contractor's acquisition of the Property with funds provided under this Agreement shall be consistent with the terms and conditions of the Easement.

In summary, the Easement will permit those activities on the Property that will preserve and protect the existing agricultural values and habitat values of the Property.

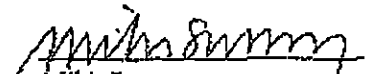
Section 12: Exhibits

The following exhibits are either attached to this Agreement or previously delivered to Contractor and incorporated herein by this reference. Should there be any conflict between provisions listed in the Standard Clauses (Exhibit G) and provisions listed in the body of the Agreement, the provisions listed in the body of the Agreement shall prevail.

- 1) Contract No. 4600001469 between NFWF and Agency (located at NFWF Office.)
- 2) Scope of Services (Exhibit A)
- 3) Budget (Exhibit B)
- 4) Sample Approved Subcontract (Exhibit C)
- 5) Sample Task Order (Exhibit D)
- 6) Sample Programmatic and Fiscal Quarterly Report, in the CALFED format (Exhibit E)
- 7) Easement Deed (Exhibit F)
- 8) Standard Clauses (Exhibit G)
DWR 4099 - for contracts with nonpublic entities
DWR 4099a-- additional clauses for all contracts
- 9) Nondiscrimination Compliance Statement (Exhibit H)


In witness hereof, the following authorized representatives have executed this Agreement.

The Nature Conservancy


Mike Sweeney
Chief Operating Officer

9/27/01
Date

National Fish & Wildlife Foundation


David Bruner
Director, Southwest Region

27 Sept 01
Date

A. SCOPE OF SERVICES (Prop. 204)

ERP-01-N23

A. Background about the Project

Working with public agencies and private landowners, The Nature Conservancy ("Contractor") has protected nearly 31,000 acres of riparian forest, seasonal wetland, tidal habitats, vernal pool grasslands, blue oak woodlands, and wildlife-friendly farming along the floodplains and foothills of the Cosumnes River and eastern Delta. The Cosumnes River Preserve (the "Preserve") has restored more than 1,000 acres of seasonal wetlands, 850 acres of riparian forest habitat, and implemented innovative levee set-back projects to create natural channel meander. Contractor is an active participant in CALFED's North Delta Improvement Group, a stakeholder group addressing flooding and habitat issues in the Mokelumne Corridor.

The Preserve represents a significant cumulative investment in land, management, planning, and scientific investigation to date. The funding contributed to the Preserve to date represents a mix of federal, state, local, mitigation, and private sources. Property owning partners at the Preserve include U.S. Bureau of Land Management, Wildlife Conservation Board, State Lands Commission, Ducks Unlimited, U.S. Fish and Wildlife Service, Sacramento County, and Contractor.

Evaluating the effectiveness of our restoration actions, and adjusting our management practices accordingly, are integral parts of Contractor's science-based conservation program. The application of wetland habitat management practices to agricultural crops will require adaptive approaches to develop not only an economically efficient operation but also highly desirable habitat for target species such as the threatened greater sandhill crane, northern pintail, and other waterfowl species. The Staten Island project would use the adaptive management approach to refine wetland habitat management and sustainable Delta agriculture practices.

B. The Scope of the Project

The funding provided under this agreement, as well as concurrent funding by the California Department of Water Resources ("DWR"), will allow Contractor to undertake the following: (1) acquisition of the 9,106 acres commonly known as Staten Island ("Staten Island") in fee and from a willing seller, with the mineral rights below 500 feet retained by the seller, (2) execution and recordation of a conservation easement to be held by the DWR; (3) start-up stewardship tasks; (4) participation in the North Delta Planning process being implemented by the DWR and coordinated through the Delta Protection Commission (the "North Delta Planning Process"); and (5) potential acquisition of subsurface mineral rights.

Staten Island is located in Northern San Joaquin County, and is surrounded by the North and South Forks of the Mokelumne River. The project lies within the Sacramento-San Joaquin Delta Ecological Management Zone and the East Delta Ecological Management Unit. Staten Island is farmed commercially at the present time, and has soils classified as prime, unique, or statewide important on the Department of Conservation's Important Farmlands Maps.

Funding under this agreement, along with the additional State funding to be provided pursuant to a separate agreement between Contractor and DWR, will allow Contractor to acquire Staten Island in fee and to provide for continued farming of Staten Island consistent with achieving CALFED ecosystem

objectives for the East Delta. The scope of funded activities will include acquisition from willing seller of the fee title to Staten Island, including the water rights associated therewith, but subject initially to a reservation of the mineral estate in favor of seller, together with, start-up stewardship and project management. Following the initial acquisition of fee title to Staten Island, Contractor will attempt to negotiate the purchase of the reserved mineral estate associated with Staten Island that will be retained by seller.

Immediately following Contractor's purchase of Staten Island Contractor will record in the Official Records of San Joaquin County a conservation easement (the "Easement") which will be held by DWR. The Easement will provide for future uses of Staten Island that will protect the existing agricultural and habitat values of Staten Island. Staten Island will continue to be farmed in a manner consistent with achieving CALFED ecosystem objectives for the East Delta, as stated in the Ecosystem Restoration Program Plan (ERP, Vol. II, pp. 44-45 (prescriptions and measures for greater sandhill crane), 47-48 (prescriptions and measures for giant garter snake), 86-95 (vision for East Delta EMU, habitats, and species), 111-115 (targets and programmatic actions for agricultural land habitat). Contractor will use net revenues received from the farming activities on Staten Island to support ongoing operations, habitat management and/or improvements associated with Contractor's Delta Project.

Also in connection with the Proposition 13 funding to be provided by DWR, at the close of escrow, Contractor will enter into a planning participation agreement ("Planning Agreement") with DWR respecting Contractor's obligation to participate in the North Delta Planning Process. For up to ten years following closing, Contractor, as the fee owner of Staten Island, will actively participate in the North Delta Planning Process with the objective of evaluating a flood management project to be implemented on Staten Island that satisfies certain requirements intended to balance the multiple funding objectives for the project. If the North Delta Planning Process is completed within such ten year period and concludes that, whether for environmental reasons or otherwise, it is not appropriate to implement a flood management project on Staten Island, Contractor's obligation under the Planning Agreement will be satisfied, and Contractor will have no obligation to convey any property interests to DWR for flood management. If the North Delta Planning Process is not completed within such period, upon the request of DWR, Contractor will negotiate with DWR respecting the terms and conditions of a flood easement that Contractor will convey to DWR covering Staten Island that will be recorded in San Joaquin County and will balance the multiple funding objectives for the project.

Contractor will include the Delta Protection Commission ("Commission") in the planning for the long-term management of Staten Island. Contractor's future short-term and long-term management, and planning activities for Staten Island are intended to (1) protect critical agricultural wetlands for use by migratory birds, and (2) allow development, refinement and implementation of economically viable wildlife-friendly agricultural practices.

Potential future phases of activities on Staten Island may include improving the irrigation infrastructure to improve management of seasonally flooded fields and development and implementation of a restoration plan. For future phases of activities on Staten Island, Contractor will comply with all laws and regulations, including the California Environmental Quality Act (CEQA), that are applicable to Contractor with respect to such activities and will obtain approval for such future phases by the Resources Agency and/or other appropriate state agency.

C. The Objectives or Benefits of the Project.

- Protect and enhance critical agricultural wetlands, an important wintering area for greater sandhill cranes and other migratory waterfowl.
- Facilitate protection of a contiguous habitat corridor along the lower Cosumnes and Mokelumne Rivers.
- Facilitate population expansion of species associated with functioning East Delta habitats, particularly migratory birds such as sandhill cranes, waterfowl, shorebirds, and resident species such as the giant garter snake and western pond turtle.
- Provide for continued farming on the property consistent with achieving CALFED's ecosystem objectives for the East Delta, as referred in Section B.
- Participate in CALFED's North Delta Planning Process to evaluate potential implementation of flood management projects on Staten Island.

D. The Responsibilities of each party.

1. Contractor:

- a. Will act as primary contact with NFWF/CALFED for purposes of carrying out the Scope of Work as outlined in Task Orders 1, 2, 3 and 4.

2. NFWF:

- a. NFWF has been designated as Contract Administrator for this project, with duties as described in the NFWF/Agency/CALFED Agreement

E. Work to be Performed.

Task Orders with deliverables will be prepared for Tasks 1, 2, 3 and 4.

Task Order One:	Acquisition of Fee Title
Task Order Two:	Stewardship
Task Order Three:	Project Management
Task Order Four:	Mineral Rights Acquisition

A. Task Orders

Work Schedule

Task 1 - Acquisition of Fee Title

Task Order 1 includes the fee title acquisition of Staten Island (including associated water rights), together with all reasonable and necessary due diligence and closing costs and expenses that are related to completing such acquisition, including but not limited to, capital acquisition costs (including extension payments), appraisals, environmental site assessments, surveys as necessary, agricultural financial consultant, levee engineers, outside legal counsel, title reports and insurance, escrow and closing fees, travel, supplies, salaries and benefits, professional and other miscellaneous direct costs and indirect costs. As all water rights on Staten Island are riparian in nature, all of these water rights will be transferred to Contractor upon transfer of the fee interest in Staten Island to Contractor. This Task Order 1 does not include acquisition of the mineral estate comprising all subsurface oil, gas, asphaltum and other hydrocarbon substances situated 500 feet or more below the surface of Staten Island (the "Reserved Mineral Estate"), which is being reserved by the seller at this time, but may be subject to future acquisition by Contractor under Task Order 4. Contractor may use the funds provided under this task order to cover pre-acquisition costs even in the event that the acquisition is not completed for any reason.

Contractor, another existing nonprofit organization or a new nonprofit corporation organized by Contractor and other stakeholders having as its mission to manage the farm operations on Staten Island in a wildlife-friendly manner, will hold title to and manage Staten Island for at least the three year period following Contractor's acquisition of Staten Island:

Direct Labor Hours	Subject to Overhead							Exempt from Overhead		
	Salary	Benefits	Travel	Supplies & Expendable	Taxes and Insurance	Services & Contracts	Misc. & Other Direct Costs	Overhead	Acquisition	Total Cost
1800	\$ 72,000	\$ 27,000	\$ 300	\$ 300	\$ -	\$ 75,000	\$ 1,000	\$ 38,632	\$12,444,564	\$12,654,796

Task/subtask No.	Descriptive Title	Deliverable Name	Deliverable Due Date
Task 1	Acquisition		
	deliverable a	Quarterly fiscal and programmatic reports	During term of contract: July 10, October 10, January 10, April 10
	deliverable b	Final Report	January 31, 2004
	deliverable c	Copies of subcontracts	As prepared until January 31, 2004
	deliverable d	Appraisal	When Task Order is signed.
	deliverable e	Phase 1 - Environmental Assessment Report	When Task Order is signed.

	deliverable f	Purchase and Sale Agreement	When Task Order is signed.
	deliverable g	Closing Statement	Promptly following close of escrow.
	deliverable h	Copy of Recorded Deed	Promptly following close of escrow.
	deliverable i	CALFED Land Acquisition Questionnaire	June 30, 2002

The tasks described by this Task Order will be completed by June 30, 2002.

Contractor hereby agrees to comply with the terms and conditions of Task Order 1. The undersigned project proponent warrants that he/she has the authority to bind Contractor to comply with these terms. The undersigned CALFED contract manager hereby approves this Task Order.

Mike Simon
Contractor

9/27/01
Date

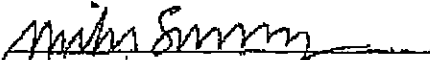
CALFED
[Signature]
NFWF

Date
27 Sept 01
Date


	deliverable f	Purchase and Sale Agreement	When Task Order is signed.
	deliverable g	Closing Statement	Promptly following close of escrow.
	deliverable h	Copy of Recorded Deed	Promptly following close of escrow.
	deliverable i	CALFED Land Acquisition Questionnaire	June 30, 2002

The tasks described by this Task Order will be completed by June 30, 2002.

Contractor hereby agrees to comply with the terms and conditions of Task Order 1. The undersigned project proponent warrants that he/she has the authority to bind Contractor to comply with these terms. The undersigned CALFED contract manager hereby approves this Task Order.


Contractor

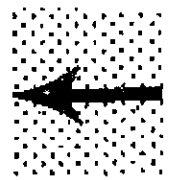
9/27/01
Date


CALFED

9/28/01
Date


NPWF

27 Sept 01
Date



Task 2.-- Stewardship

The currently anticipated start-up stewardship activities include one of some combination of the following: (1) baseline biological surveys and monitoring; (2) levee and agronomic studies; (3) analysis of appropriate long-term ownership entity; (4) maintenance and repairs of existing improvements and infrastructure, including buildings, fences, gates culverts, roads, levees and equipment; (5) removal of trash and debris; and (6) taxes and insurance.

This grant does not provide for comprehensive baseline environmental surveys or for future monitoring because Contractor assumes that both will be carried out by CALFED agencies in conjunction with the North Delta corridor EIR/EIS. However, Contractor will conduct a survey to document baseline status of wintering waterfowl and sandhill cranes within 2 years of acquisition. As part of this task, a monitoring plan will be developed for Staten Island, focusing on waterfowl and crane use of the seasonally flooded agricultural lands. The Preserve is currently refining its approach to waterfowl monitoring on its managed wetlands, and the Staten Island plan will be consistent with other Preserve monitoring efforts. The specific details of the Staten Island monitoring plan will be developed, but it is likely that the surveys would be conducted twice monthly or more during the flooding season when birds are expected to be using the fields (September-March). Counts will be made of each management unit during the day (to document daytime foraging). A complete count of greater sandhill cranes and northern pintail would be attempted, and other species and subspecies would be counted (i.e. other ducks, other cranes, unknown cranes, shorebirds, etc.). Crop type and water depths of each surveyed field will be recorded. Where possible, we will also compare Staten Island data with results from other areas of the Preserve that may be monitored, such as the rice fields and managed wetland ponds. We will also compile any existing information from the farm managers on historic patterns of waterfowl and sandhill crane use of Staten Island.

Contractor's normal levee maintenance and repairs at Staten Island may include experimental, wildlife friendly techniques, intended to enhance the existing wildlife management of the seasonally flooded, wildlife-friendly farm project. This project is intended to maintain and improve targeted segments of existing levees that protect critical habitat for sandhill cranes and other wintering waterfowl, and to improve habitat values on the interior slopes of the levees. All levee improvements would be done in coordination with the plans of CALFED's North Delta Improvements group and the CALFED Levee Program. These objectives would be carried out by one or some combination of the following actions:

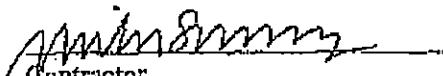
1. Complete levee survey to determine where levee improvements are needed.
2. Complete levee habitat survey to identify existing levee reaches that support wildlife, in order to inform future maintenance activities.
3. Maintain the existing level of levee stability.
4. Maintain or improve the interior levee slope in order to support wildlife friendly plantings.
5. Improve habitat values on the interior levee slopes through plantings of native groundcover, shrubs, and trees, and/or removal of exotic plants.
6. Make levee repairs needed to protect the farming operation and the cranes, swans, ducks, geese and other wildlife using the island for foraging and roosting during the winter flood season.

Direct Labor Hours	Subject to Overhead							Exempt from Overhead		
	Salary	Benefits	Travel	Supplies & Expendable	Taxes and Insurance	Services & Contracts	Misc. & Other Direct Costs	Overhead	Acquisition	Total Cost
6000	\$180,000	\$ 87,500	\$ 5,000	\$ 20,000	\$ 951,846	\$1,800,000	\$ 25,000	\$ 495,472	\$	\$ 2,747,818

Task/subtask No.	Descriptive Title	Deliverable Name	Deliverable Due Date
Task 2	Stewardship		
	deliverable a	Quarterly fiscal and programmatic reports	During term of contract: July 10, October 10, January 10, April 10
	deliverable b	Final Report	January 31, 2004
	deliverable c	Copies of subcontracts	As prepared until January 31, 2004
	deliverable d	Waterfowl and Crane Monitoring Plan	September 30, 2002
	deliverable e	Waterfowl and Crane Baseline Monitoring Report	May 31, 2003
	deliverable f	Short-Term Property Management Plan	December 31, 2002

The tasks described by this Task Order will be completed by January 31, 2004.

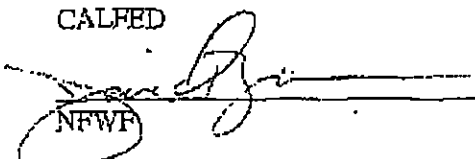
Contractor hereby agrees to comply with the terms and conditions of Task Order 2. The undersigned project proponent warrants that he/she has the authority to bind Contractor to comply with these terms. The undersigned CALFED contract manager hereby approves this Task Order.


Contractor

9/27/01
Date

CALFED

Date


NFWF

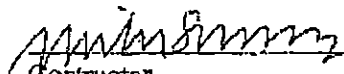
27 Sept 01
Date

Direct Labor Hours	Subject to Overhead							Exempt from Overhead		
	Salary	Benefits	Travel	Supplies & Expendable	Taxes and Insurance	Services & Contracts	Misc. & Other Direct Costs	Overhead	Acquisition	Total Cost
8000	\$180,000	\$ 67,500	\$ 5,000	\$ 20,000	\$ 354,846	\$1,800,000	\$ 25,000	\$ 495,472	\$ -	\$ 2,747,518

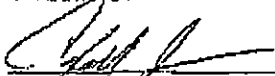
Task/subtask No.	Descriptive Title	Deliverable Name	Deliverable Due Date
Task 2	Stewardship		
	deliverable a	Quarterly fiscal and programmatic reports	During term of contract: July 10, October 10, January 10, April 10
	deliverable b	Final Report	January 31, 2004
	deliverable c	Copies of subcontracts	As prepared until January 31, 2004
	deliverable d	Waterfowl and Crane Monitoring Plan	September 30, 2002
	deliverable e	Waterfowl and Crane Baseline Monitoring Report	May 31, 2003
	deliverable f	Short-Term Property Management Plan	December 31, 2002

The tasks described by this Task Order will be completed by January 31, 2004.

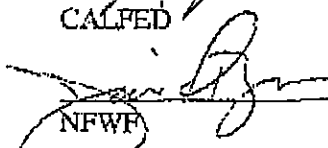
Contractor hereby agrees to comply with the terms and conditions of Task Order 2. The undersigned project proponent warrants that he/she has the authority to bind Contractor to comply with these terms. The undersigned CALFED contract manager hereby approves this Task Order.


Contractor

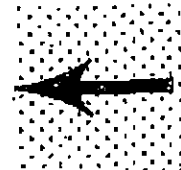
9/27/01
Date


CALFED

9/28/01
Date


NFWF

27 Sept 01
Date



Task 3 – Project Management

Task Order 3 provides for Contractor's oversight of all phases of the project, including acquisition, stewardship, outreach and communications and contracts for professional services. Outreach efforts are a continuation of activities promoting wildlife-friendly agriculture and floodplain management to Delta farmers and local political leaders. The project manager and other Contractor science staff will participate in long-term restoration planning efforts for the area being undertaken by appropriate public agencies and the Commission.

The Project Manager would be expected to participate in activities associated with CALFED North Delta Improvements; CALFED Levee Program; CALFED Ecosystem Restoration; South Sacramento Streams Project; DWR Flood Preparedness and System Management Coordination with San Joaquin County and the Commission.

Direct Labor Hours	Subject to Overhead							Exempt from Overhead		
	Salary	Benefits	Travel	Supplies & Expendable	Taxes and Insurance	Services & Contracts	Misc. & Other Direct Costs	Overhead	Acquisition	Total Cost
800	\$ 36,000	\$ 13,500	\$ 200	\$ 1,000	\$ -	\$ 20,000	\$ 1,000	\$ 15,774	\$ -	\$ 67,474

Task/subtask No.	Descriptive Title	Deliverable Name	Deliverable Due Date
Task 3	Project Management		
	deliverable a	Quarterly fiscal and programmatic reports	During term of contract: July 10, October 10, January 10, April 10
	deliverable b	Final Report	January 31, 2004

The tasks described by this Task Order will be completed by January 31, 2004.

Contractor hereby agrees to comply with the terms and conditions of Task Order 3. The undersigned project proponent warrants that he/she has the authority to bind Contractor to comply with these terms. The undersigned CALFED contract manager hereby approves this Task Order.

[Signature]
Contractor

9/27/01
Date

CALFED
[Signature]
NFWF

27 Sept 01
Date

Task 3 – Project Management

Task Order 3 provides for Contractor's oversight of all phases of the project, including acquisition, stewardship, outreach and communications and contracts for professional services. Outreach efforts are a continuation of activities promoting wildlife-friendly agriculture and floodplain management to Delta farmers and local political leaders. The project manager and other Contractor science staff will participate in long-term restoration planning efforts for the area being undertaken by appropriate public agencies and the Commission.

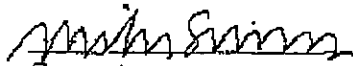
The Project Manager would be expected to participate in activities associated with CALFED North Delta Improvements; CALFED Levee Program; CALFED Ecosystem Restoration; South Sacramento Streams Project; DWR Flood Preparedness and System Management Coordination with San Joaquin County and the Commission.

Direct Labor Hours	Subject to Overhead							Exempt from Overhead		
	Salary	Benefits	Travel	Supplies & Expendable	Taxes and Insurance	Services & Contracts	Misc. & Other Direct Costs	Overhead	Acquisition	Total Cost
800	\$ 30,000	\$ 13,500	\$ 200	\$ 1,000	\$ -	\$ 20,000	\$ 1,000	\$ 15,774	\$ -	\$ 87,474

Task/subtask No.	Descriptive Title	Deliverable Name	Deliverable Due Date
Task 3	Project Management		
	deliverable a	Quarterly fiscal and programmatic reports	During term of contract: July 10, October 10, January 10, April 10
	deliverable b	Final Report	January 31, 2004

The tasks described by this Task Order will be completed by January 31, 2004.


Contractor hereby agrees to comply with the terms and conditions of Task Order 3. The undersigned project proponent warrants that he/she has the authority to bind Contractor to comply with these terms. The undersigned CALFED contract manager hereby approves this Task Order.


Contractor

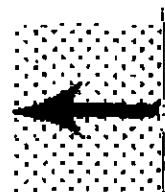
9/27/01
Date


CALFED

9/28/01
Date


NFWF

27 Sept 01
Date



Task 4 - Mineral Rights Acquisition

Task Order 4 provides for the potential acquisition of the Reserved Mineral Estate, together with all reasonable and necessary due diligence and closing costs and expenses that are related to completing such acquisition, including but not limited to, capital acquisition costs, appraisals, outside legal counsel, title reports and insurance, escrow and closing fees, travel, supplies, salaries and benefits, professional and other miscellaneous direct costs and indirect costs. Contractor may use the funds provided under this task order to cover pre-acquisition costs even in the event that the acquisition is not completed for any reason.

At this time Contractor's acquisition of the fee interest in Staten Island is structured such that the current fee owner will retain ownership of the Reserved Mineral Estate, subject to limited surface access rights that have been approved by Resources. However, Contractor is currently in preliminary negotiations with the current owner respecting the purchase of the Reserved Mineral Estate, the terms of which may exclude the rights to some or all of those natural gas wells that are currently in production under existing oil and gas leases. It is expected that any acquisition by Contractor of all or any portion of the Reserved Mineral Estate would close escrow some time period following Contractor's acquisition of the fee interest in Staten Island.

The Reserved Mineral Estate will be subject to the same transfer restrictions as the other property interests that are the subject of Task Order 1.

Direct Labor Hours	Subject to Overhead							Exempt from Overhead		
	Salary	Benefits	Travel	Supplies & Expendable	Taxes and Insurance	Services & Contracts	Misc. & Other Direct Costs	Overhead	Acquisition	Total Cost
500	\$ 18,000	\$ 6,750	\$ 200	\$ 200	\$ -	\$ 25,000	\$ 300	\$ 11,099	\$ 2,000,000	\$ 2,061,549

Task/subtask No.	Descriptive Title	Deliverable Name	Deliverable Due Date
Task 4	Acquisition		
	deliverable a	Quarterly fiscal and programmatic reports	During term of contract: July 10, October 10, January 10, April 10
	deliverable b	Final Report	January 31, 2004
	deliverable c	Copies of subcontracts	As prepared until January 31, 2004
	deliverable d	Appraisal	When Task Order is signed.
	deliverable e	Purchase and Sale Agreement	When Task Order is signed.
	deliverable f	Closing Statement	Promptly following close of escrow.

	deliverable g	Copy of Recorded Deed	Promptly following close of escrow.
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The tasks described by this Task Order will be completed by January 31, 2004.

Contractor hereby agrees to comply with the terms and conditions of Task Order 1. The undersigned project proponent warrants that he/she has the authority to bind Contractor to comply with these terms. The undersigned CALFED contract manager hereby approves this Task Order.

Mark Summ
Contractor

9/27/01
Date

CALFED
[Signature]
NFWF

Date
27 Sept 01

	deliverable g	Copy of Recorded Deed	Promptly following close of escrow.
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The tasks described by this Task Order will be completed by January 31, 2004.

Contractor hereby agrees to comply with the terms and conditions of Task Order 1. The undersigned project proponent warrants that he/she has the authority to bind Contractor to comply with these terms. The undersigned CALFED contract manager hereby approves this Task Order.

Mark Swann
Contractor

9/22/01
Date

Charles J. ...
CALFED

9/28/01
Date

...
NFWF

27 Sept '01
Date

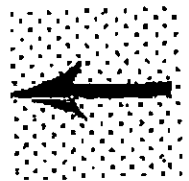


Exhibit B

F. Budget - ERP 01-N23

Task	Direct Labor Hours	Subject to Overhead							Exempt from Overhead		
		Salary	Benefits	Travel	Supplies & Expendable	Taxes and Insurance	Services & Contracts	Misc. & Other Direct Costs	Overhead	Acquisition	Total Cost
Task 1 - Land Acquisition	1800	\$ 72,000	\$ 27,000	\$ 300	\$ 300	\$ -	\$ 75,000	\$ 1,000	\$ 38,632	\$12,444,584	\$12,658,798
Task 2 - Stewardship, monitoring	6000	\$180,000	\$ 67,500	\$ 5,000	\$ 20,000	\$354,646	\$1,800,000	\$ 25,000	\$ 495,472	\$ -	\$ 2,747,618
Task 3 - Program Management	800	\$ 38,000	\$ 13,500	\$ 200	\$ 1,000	\$ -	\$ 20,000	\$ 1,000	\$ 15,774	\$ -	\$ 87,474
Task 4 - Mineral Rights Acquisition	500	\$ 18,000	\$ 6,750	\$ 200	\$ 200	\$ -	\$ 25,000	\$ 300	\$ 11,099	\$ 2,000,000	\$ 2,061,549
Total	9100	\$308,000	\$114,750	\$ 5,700	\$ 21,500	\$354,646	\$1,720,000	\$ 27,300	\$ 660,877	\$14,444,584	\$17,555,437

Exhibit B

01187293

ASSESSOR RECORDER
COUNTY CLERK
GARY W. FREEMAN

28

(2)

162885

2001 NOV 15 AM 8:00

SAN JOAQUIN COUNTY
First American of Stockton

RECORDING REQUESTED BY

WHEN RECORDED MAIL TO:

DEPARTMENT OF WATER RESOURCES
Division of Land and Right of Way
Real Estate Branch
1416 9th Street, Room 425
Sacramento, California 95814

WITH A CONFORMED COPY TO:

THE NATURE CONSERVANCY
Sacramento Field Office
2015 J Street, Suite 103
Sacramento, California 95814
Attention: Julie Turriani

Exempt

Space Above This Line for Recorder's Use

CONSERVATION EASEMENT DEED

Parcel No.

(Corporation)

File No.

THE NATURE CONSERVANCY, a nonprofit corporation, organized and existing under and by virtue of the laws of the District of Columbia (hereafter "Grantor"), does hereby grant, convey, and dedicate to the CALIFORNIA DEPARTMENT OF WATER RESOURCES (hereafter, the "Department") an exclusive and perpetual conservation easement covering the real property situated in the County of San Joaquin, State of California, and more particularly described on Exhibit A attached hereto (hereafter, "Staten Island" or the "Property"), as follows:

Recitals

WHEREAS, Grantor acquired fee title to Staten Island through two grants of funding provided by the State of California. Specifically, the California Resources Agency (the "Agency") awarded California Proposition 204 funds to Grantor to acquire Staten Island and to carry out initial stewardship activities on Staten Island, including maintenance, monitoring, and continued wildlife-friendly farming practices. The Agency determined the Staten Island project would implement the CALFED Ecosystem Restoration Program by (1) protecting critical agricultural wetlands for continued use by significant numbers of migratory birds, and (2) allowing development and refinement of economically viable wildlife-friendly agricultural practices.

WHEREAS, in addition, the Department awarded California Proposition 13 funds to Grantor to contribute to the cost of Grantor acquiring fee title to Staten Island. The Department determined that acquisition of Staten Island by Grantor, Grantor's continued management and use of Staten Island for wildlife-friendly agricultural purposes, and Grantor's agreement to participate in the North Delta planning process and potentially grant a flood management easement in favor of the Department in the future, pursuant to the terms and conditions of the separate written agreement between Grantor and Department referenced below, will preserve agricultural land, protect wildlife habitat, and protect this floodplain area from inappropriate or incompatible development, consistent with the purposes of the Flood Protection Corridor Program described in Water Code section 79035 et seq.

WHEREAS, the two contractual agreements which provide for the transfer of grant funds by the Department and the Agency to Grantor for Grantor's acquisition of Staten Island, acknowledge the multiple and complementary benefits Staten Island provides to the State of California for: (1) agricultural land preservation, including the economic viability of agricultural operations; (2) wildlife habitat protection; (3) protection of a floodplain area from potential inappropriate and incompatible development; and (4) potential role in future flood management and water management improvements (hereafter "Multiple and Complementary Benefits").

WHEREAS, Grantor and the Department further acknowledge that the Department is engaging in a multi-agency planning process for designing and constructing floodway improvements in the North Delta (the "North Delta Planning Process"), pursuant to the CALFED Bay-Delta Program Programmatic Record of Decision (August 28, 2000). The Department's evaluation of alternatives for such floodway improvements in the North Delta may include use of all or a portion of Staten Island for future flood management projects or activities. By separate written agreement entered into by the Department and Grantor concurrent with this Conservation Easement Deed, and which is referenced in that certain Memorandum of Agreement, dated September 27,

01187293

2001, and recorded in the Official Records of San Joaquin County concurrent with the recordation of this Conservation Easement Deed (the "North Delta Planning Process Participation Agreement"). Grantor has agreed to (1) participate in the North Delta Planning Process, (2) cooperate in the implementation of a flood management project or activity on or involving Staten Island that is included in the final plan resulting from the North Delta Planning Process and which satisfies the express requirements set forth in such agreement; and (3) upon the happening of certain circumstances, grant to the Department a flood easement over Staten Island which satisfies the express requirements set forth in the North Delta Planning Process Participation Agreement.

WHEREAS, it is the intent of the Department and Grantor, as parties to this Conservation Easement Deed, to protect each of the existing Multiple and Complementary Benefits of Staten Island and to preserve the existing conditions on Staten Island during and after the North Delta Planning Process, subject to implementation of any flood management project or activity in accordance with the North Delta Planning Process Participation Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, based on the common law and the California law of easements, including Section 815 et seq of the Civil Code, Grantor forever grants to the State of California, acting by and through the Department, its successors and assigns, a conservation easement, in over and across the Property ("the Conservation Easement"), subject to the terms and conditions hereinafter set forth describing the uses which may be made of the Property, and the parties agree as follows:

1. Purposes. The purposes of this Conservation Easement are to preserve and protect each of the Multiple and Complementary Benefits of the Property. In so doing, it is also the purpose of this Conservation Easement to encourage and promote wildlife-friendly agricultural practices on the Property.

2. Department's Rights and Obligations. The rights conveyed by this Conservation Easement to the State, acting by and through the Department, include, but are not limited to, the following:

A. The Department may identify, monitor, research, preserve and protect forever the natural, ecological, environmental and wildlife features of the Property, to the extent necessary to effectuate the express purposes of this Conservation Easement.

B. The Department is hereby granted the rights of access, for itself and its agents and contractors to enter upon the Property, using appurtenant easements and rights of way, if any, and may enter upon the Property at any and all reasonable times, with reasonable prior notice to Grantor, to inspect, study

and make scientific and engineering observations of the Property, to the extent necessary to effectuate the express purposes of this Conservation Easement, and to determine whether Grantor's activities are in compliance with the terms hereof. The Department shall not unreasonably interfere with the use and quiet enjoyment of the Property by Grantor, its successors in interest, and Grantor's guests, invitees, licensees, lessees, tenants and permittees and any other legally recognized occupants of the Property.

C. The Department may enjoin any activity or use of the Property that is inconsistent with the purposes of this Conservation Easement, and may enforce the restoration of such areas or features of the Property that may be damaged by any activity or use of the Property which is inconsistent with the terms of this Conservation Easement.

D. The Department may assign all or any part of its interests in the Conservation Easement without the consent of the Grantor, provided that (1) the Department shall provide Grantor with reasonable notice of the Department's intention to effect such assignment and afford Grantor the opportunity to confer with the Department respecting an assignee that would be acceptable to Grantor, (2) the Department shall provide to Grantor written notice of such transfer within thirty (30) days of such transfer, and (3) any such assignment shall be to a nonprofit organization exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code or to a governmental agency or political subdivision with authority to own property. Any assignee shall assume and be subject to all the provisions of this Conservation Easement.

E. In furtherance of the Multiple and Complementary Benefits, the above-described rights shall be exercised in a manner which does not unreasonably interfere with the reserved uses and enjoyment of the Property by the Grantor, and in a manner which is in harmony with, and does not materially interfere with, any of the Multiple and Complementary Benefits.

F. This Conservation Easement is intended to be consistent with any flood management project or activity implemented on the Property, and any flood control easement recorded against the Property, pursuant to the terms of the North Delta Planning Process Participation Agreement. In that regard, any such flood management project or activity or flood control easement shall be a permitted use of the Property pursuant to the terms of this Conservation Easement.

3. Grantor's Rights and Obligations.

A. Grantor shall be permitted to conduct agricultural practices on Staten Island in a manner consistent with the preservation or enhancement of the Multiple and Complementary Benefits. It is the intent of the parties that Grantor will refrain from engaging in any actions that would result in the conversion of any material portion of Staten Island away from agricultural use. Notwithstanding the

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foregoing, Grantor may, without obtaining the consent of the Department, fallow areas within Staten Island consistent with sound agricultural practices. Any material change in the use of Staten Island which is not expressly permitted in the immediately preceding sentence must be in accordance with a restoration plan reviewed by the Delta Protection Commission and approved by the Department and the Agency; which approval shall not be unreasonably withheld as long as the proposed restoration plan is consistent with the preservation or enhancement of the Multiple and Complementary Benefits. The review of any restoration plan that requires the approval of the Department and the Agency pursuant to the immediately preceding sentence shall be subject to public review and compliance with the California Environmental Quality Act (California Public Resource Code Section 21000 *et seq.*) ("CEQA"), to the extent applicable. Orchards and/or vineyards may not be planted on the Property without first obtaining the express written consent of the Department.

B. Grantor shall comply with all federal, State and local laws, statutes, rules, regulations and ordinances (collectively, the "Laws") that apply to Grantor respecting Grantor's acquisition, ownership and operation of Staten Island and obtain any other permits, approvals, and licenses that Grantor is required to obtain under any Law that is applicable to Grantor respecting Grantor's acquisition, ownership and operation of Staten Island. Upon the request of the Department, Grantor shall deliver to the Department a copy of any requested final permit, license or approval obtained by Grantor in connection with Grantor's acquisition, ownership and operation of Staten Island.

C. Grantor agrees to indemnify and hold the Department harmless for any damage suffered by the Department as a result of Grantor's activities on Staten Island; provided, that such damage shall not have been caused by the gross negligence or willful misconduct of the Department.

D. Subject to normal wear and tear, Grantor shall maintain the Property, together with those improvements located thereon, in the same or better condition as on the date the Property was acquired by Grantor, provided, however, that if any Act of God results in extraordinary damage, Grantor shall have no obligation to restore the Property or improvements, and Grantor shall have no obligation to replace or restore any improvements at the end of the useful life of such improvements. Grantor may maintain, repair, reasonably enlarge and reasonably replace any existing agricultural and residential buildings, structures, facilities and other improvements located on the Property as of the date of this Conservation Easement (together with typical amenities associated with such structures). Grantor may construct, maintain, repair, reasonably enlarge and reasonably replace new agricultural and non-residential buildings, structures, facilities and improvements on the Property (together with typical amenities associated with such structures); provided that such new buildings, structures and improvements permitted on the Property shall be limited to those that are associated with the agricultural and other activities that are

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permitted on the Property pursuant to this Conservation Easement and are consistent with the preservation or enhancement of the Multiple and Complementary Benefits.

E. Grantor shall assume all management, operation and maintenance costs associated with its ownership of the Property, including the costs of ordinary repairs and replacements of a recurring nature and costs associated with Grantor's compliance with any and all Laws that are applicable to Grantor in connection with Grantor's ownership and operation of the Property. The Department shall not be liable for any costs associated with the management, operation and maintenance of the Property, except and to the extent of those costs associated with any flood management project or activity or flood control easement that shall be the responsibility of the Department, as set forth in the North Delta Planning Participation Agreement.

F. Grantor shall not engage in any dumping, releasing or other disposal of noncompostable refuse, trash, unsightly, toxic or other hazardous material on the Property; except to the extent such activities are conducted in connection with those agricultural operations and activities that are permitted under this Conservation Easement and are consistent with good farming practices conducted in the general area and in a manner that is in compliance with all Laws that are applicable to such activities.

G. Grantor shall not change the topography of the Property without first obtaining the written consent of the Department, including, without limitation, any topographical change resulting from any mining activity or levee or berm construction, except that (1) any topographical changes resulting from any permitted agricultural activities conducted on the Property by Grantor or permitted wildlife habitat enhancement activities on the Property conducted by Grantor shall be permitted under this Conservation Easement without obtaining the consent of the Department, and (2) those rights to surface access to the Property that have been granted to those oil and gas lessees that have entered into oil and gas leases that cover any portion of the Property and are effective as of the date of this Conservation Easement, together with the limited surface access rights that may be granted to any future oil and gas lessee under any oil and gas lease entered into following the date of this Conservation Easement, shall be permitted under this Conservation Easement without obtaining the consent of the Department to the extent such surface access rights are consistent with and no more expansive than those set forth in Exhibit B to that certain Grant Deed transferring to the Conservancy fee title to the Property, recorded on 11-15-01, 2001, in the Official Records of San Joaquin County, as Instrument Number 01187293 (the "Reserved Mineral Estate Rights and Restrictions"). Department hereby acknowledges and confirms that the exercise of those rights that are contained in the Reserved Mineral Estate Rights and Restrictions are consistent with the purposes of this Conservation Easement and shall be permitted hereunder. Department further acknowledges that

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Department's rights under this Conservation Easement shall be subject to and subordinate to each of those liens and encumbrances recorded against the Property that are set forth on Exhibit B attached hereto. Department further acknowledges and confirms the Department's approval of all of the terms and conditions set forth in that certain Farm Lease, dated 11-15-01, 2001, by and between Grantor, as landlord, and Pacific Realty Associates, L.P., a Delaware limited partnership, as tenant ("Tenant"), and the exercise by Tenant of any and all of Tenant's rights thereunder.

H. Grantor may not manipulate, divert, or otherwise control or alter the natural watercourses or other bodies of water on the Property or adjacent property, except in connection with any permitted agricultural activities conducted on the Property by Grantor or permitted wildlife habitat enhancement activities on the Property conducted by Grantor, or engage in any activity that would pollute or degrade the surface or subsurface waters, except in connection with the permitted agricultural operations on the Property or as may be expressly permitted elsewhere herein.

I. Grantor shall pay all applicable real property taxes, assessments, fees and charges of whatever kind levied or assessed on the underlying fee interest in the Property. If Department ever pays any taxes, assessments, fees or charges on the underlying fee interest that are the responsibility of Grantor, Grantor shall promptly reimburse the Department for the same.

J. Grantor shall not seek or pursue any change in the zoning or land-use designation of the Property, nor any subdivision of the property, without the express written consent of the Department.

K. Grantor shall not plant any of the non-native plants that are identified on Exhibit C attached hereto.

L. Grantor shall be permitted to apply herbicides, pesticides or fungicides on the Property only in connection with permitted agricultural or wildlife enhancement activities conducted by Grantor on the Property in full compliance with all applicable Laws and consistent with good farming practices conducted in the general area of the Property.

M. Grantor shall retain, maintain and preserve the right to use all water rights associated with the Property.

N. Grantor reserves all rights respecting the Property that are not expressly prohibited by this Conservation Easement and which are not inconsistent with the purposes of this Conservation Easement.

O. Upon request of the Department during the ten year period immediately following the date of this Conservation Easement, Grantor shall

submit to Grantee an annual report at the close of any calendar year describing the number of acres in agricultural production and fallow, flood management activities and other information pertinent to the management of the Property, to the extent that such information relates to the purposes of this Conservation Easement. Grantor's reporting obligations under this paragraph shall automatically terminate upon any Department Approved Transfer (as defined below).

P. Grantor shall include appropriate acknowledgment of Department's and other cost-sharing entities' financial support in any written or other media describing Grantor's acquisition and management of Staten Island. Grantor's obligation under this paragraph shall automatically terminate upon any Department Approved Transfer.

Q. Grantor shall not use, or allow any portion of the Property to be used, for mitigation to compensate for adverse environmental impacts not on the Property, without the express written consent of the Department.

R. Department shall have seven (7) business days following Department's receipt of any copy of a notice or request for Grantor's approval that has been delivered to Grantor and copied to Department pursuant to the Reserved Mineral Estate Rights and Restrictions to review and provide comment to Grantor regarding the approval request that is the subject of such notice. Grantor shall, to the extent feasible and consistent with the Reserved Mineral Estate Rights and Restrictions and the purposes of this Conservation Easement, incorporate Department's comments into Grantor's decision relative to the proposed mineral rights activities. Grantor's obligations under this paragraph shall terminate upon the earlier of (1) any Department Approved Transfer, or (2) the termination of the North Delta Planning Participation Agreement; provided, that no property interests have been granted by Grantor to Department or any other party pursuant to the North Delta Planning Participation Agreement for the purposes of flood management.

S. Grantor shall not undertake or allow any activity which would disturb or adversely affect the cultural or historic resources of the Property, without the express written permission of the Department. Before any changes in land use which may disturb the cultural and historic resources, Grantor shall conduct appropriate surveys for such resources and propose appropriate mitigation, which shall be subject to Department approval.

4. Transfer Provisions.

A. **Permitted Transfers.** Grantor shall be permitted to sell or transfer (a "Permitted Transfer") the fee interest in the Property (including the mineral estate associated therewith, to the extent applicable) (the "Fee Interest") to any one of the following entities (each, a "Permitted Transferee"): (1) a newly formed

nonprofit corporation or organization that has been created by Grantor for the purpose of owning and managing the Property consistent with the requirements set forth in this Conservation Easement; or (2) an existing nonprofit corporation affiliated with Grantor which has agreed to own and manage the Property consistent with the requirements set forth in this Conservation Easement, provided, that Grantor shall be required to obtain the prior approval of the Department to any Permitted Transferee, which approval shall not be unreasonably withheld if the proposed Permitted Transferee has a mission that is consistent with the purposes of this Conservation Easement. Grantor shall not be required to collect any consideration in exchange for the transfer of the Fee Interest to a Permitted Transferee or to return any grant funds previously made available to Grantor by the Department or the Agency for the purpose of funding Grantor's acquisition of the Property in connection with any Permitted Transfer. Any Permitted Transfer pursuant to this Paragraph 4.A. shall be made by Grantor expressly subject to this Conservation Easement and the Department's rights under the North Delta Planning Process Participation Agreement, including, without limitation, the right of the Department to obtain certain property rights in connection with the potential implementation of a flood management project or activity on Staten Island.

B. First Offer of Purchase to the Department. Prior to engaging in any Department Approved Transfer (as defined in Paragraph 4.C. below), Grantor shall deliver to the Department a written offer (the "Offer") to transfer the Property to the Department in exchange for the cash payment by the Department to Grantor of the amount equal to the positive difference, if any, between (1) the fair market value of the Fee Interest (after taking into consideration the fair market value of this Conservation Easement and any property rights granted to the Department or any other public agency and recorded against the Property for flood management purposes pursuant to the North Delta Planning Process Participation Agreement), as set forth in a written appraisal which shall be prepared by an independent appraiser selected by Grantor, and approved by the California Department of General Services, and (2) the total amount of funds provided to Grantor by the Department and the Agency for the purpose of funding Grantor's acquisition of the Property, together with interest on such amount from the date of such funding through the date of such transfer at the rate equal to that which is being earned at the time of such transfer on deposits in the State of California Pooled Money Investment Accounts. In order to accept the Offer, the Department shall deliver written notice to Grantor, within ninety (90) days of the Department's receipt of the Offer of the Department's acceptance of the Offer (the "Acceptance"). If the Department does not deliver an Acceptance within such ninety (90) day period, the Department shall be deemed to have not accepted the Offer, and Grantor shall be permitted to proceed to sell the Property to a third party, subject to the requirements set forth in Paragraph 4.C. If the Department accepts the Offer, the Department and Grantor shall use their best efforts to finalize all reasonable and necessary documentation to effect such transfer and close such transfer within the following time periods: (1) with

respect to any sale to the Department which would not require the Department to make any additional cash payment to Grantor at the close of escrow, such sale shall close escrow within one (1) year immediately following Grantor's receipt of the Acceptance; and (2) with respect to any sale to the Department which would require the Department to make an additional cash payment to Grantor at the close of escrow, such sale shall close escrow within two (2) years immediately following Grantor's receipt of the Acceptance. All closing and escrow costs incurred in connection with any transfer of the Property to the Department pursuant to this paragraph shall be paid by the Department. Grantor's obligation to offer the Property for sale to the Department under this paragraph shall be a one-time obligation and shall be satisfied in full upon the delivery of an Offer to the Department and either the non-acceptance of such Offer by the Department or the Department's Acceptance of the Offer, but failure to close escrow within the time periods required under this paragraph, provided that Grantor has used its best efforts to close escrow on such sale. Department and Grantor hereby confirm their mutual intention that (1) this Conservation Easement shall not merge with the Fee Interest upon any acquisition by Department of the Fee Interest, and (2) following such acquisition of Fee Interest, Department shall continue to be bound by all of the terms and conditions set forth in this Conservation Easement that are applicable to Grantor. Upon and in connection with any acquisition by Department of the Fee Interest, Department's interest as the holder of the Conservation Easement shall be transferred to a public agency or nonprofit organization qualified to hold a conservation easement interest under Section 815.3 of the California Civil Code which is reasonably acceptable to Grantor.

C. Department Approved Transfers. Not including any Permitted Transfer to a Permitted Transferee or any transfer of the Property to the Department pursuant to Paragraph 4.B., Grantor shall not sell or transfer, in whole or in part, the Fee Interest without first obtaining the written approval of the Department, which approval may not be unreasonably withheld if such transfer is consistent with the purposes of this Conservation Easement, as identified in Paragraph 1 above. Any transfer or sale by Grantor of all or any portion of the Fee Interest that requires the approval of the Department pursuant to this Paragraph 4.C. (a "Department Approved Transfer") shall be made by Grantor expressly subject to this Conservation Easement and to any property rights granted to the Department or any other public agency and recorded against the Property for flood management purposes pursuant to the North Delta Planning Process Participation Agreement. The consideration to be received by Grantor in any Department Approved Transfer shall equal or exceed the fair market value of such Fee Interest at the time of such proposed sale (after taking into consideration the fair market value of this Conservation Easement and any property rights granted to the Department or any other public agency and recorded against the Property for flood management purposes pursuant to the North Delta Planning Process Participation Agreement), as set forth in a written appraisal which shall be prepared by an independent appraiser selected by

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Grantor, and approved by the California Department of General Services. The amount which shall be the lesser of (1) the Net Sale Proceeds (as defined below) due Grantor in any Department Approved Transfer, and (2) the total amount of funds provided to Grantor by the Department and the Agency for the purpose of funding Grantor's acquisition of the Property, together with interest on such amount at the rate equal to that which is being earned at the time of such transfer on deposits in the State of California Pooled Money Investment Accounts shall be returned to both the Department and the Agency at the close of escrow of such Department Approved Transfer in proportion to such party's contribution to Grantor's initial acquisition of the Fee Interest subject to such Department Approved Transfer. For purposes of this Paragraph 4.C., "Net Sale Proceeds" shall mean the gross sale proceeds due Grantor in connection with such Department Approved Transfer, less the sum of the following amounts: (a) all closing and escrow costs and expenses paid by Grantor in connection with such Department Approved Transfer; (b) all overhead and administrative costs and expenses incurred by Grantor in connection with such Department Approved Transfer; and (c) any and all unrecovered direct and indirect costs incurred by Grantor in connection with the ownership and management of the Fee Interest subject to such Department Approved Transfer during the period commencing with Grantor's purchase thereof and terminating upon the close of escrow of such Department Approved Transfer.

D. Other Transfers. In addition to any Permitted Transfer or any transfer of the Property to the Department pursuant to Paragraph 4.B. or any Department Approved Transfer or any transfer of an interest in the Property contemplated by the North Delta Planning Process Participation Agreement, Grantor shall be permitted to sell or transfer, in whole or in part, any interest in the Property other than the Fee Interest, including, without limitation, leasehold interests, easements, rights-of-way and licenses (the "Other Real Property Interests") as long as such sale or transfer is consistent with the purposes of this Conservation Easement. Consistent with the foregoing, Grantor shall be permitted to grant a security interest covering crops to be harvested on the Property in favor of an institutional lender that is providing Grantor with financing for the ongoing operations and maintenance of the Property. Grantor shall be entitled to retain any and all proceeds received by Grantor in connection with the sale or transfer of any Other Real Property Interest that is permitted under this Paragraph 4.D. for the purpose of supporting ongoing operations of the Property and Grantor's habitat management and improvements in the Delta. Any transfer or sale by Grantor of any interest in the Property pursuant to this Paragraph 4.D. shall be made by Grantor expressly subject to this Conservation Easement and the Department's rights under the North Delta Planning Process Participation Agreement, including, without limitation, the right of the Department to obtain certain property rights in connection with the potential implementation of a flood management project or activity on Staten Island.

5. General Provisions.

The following provisions apply to the Conservation Easement:

A. The parties agree that they do not intend, and this Conservation Easement shall not be construed, to create any obligations on the part of the Department: (a) as an owner or operator, as those words are defined in any federal, State or local statute, regulation, ordinance, order or requirement relating to environmental conditions or hazardous materials, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act, as amended (42 U.S.C. Sections 9601, et seq.); (b) as a person described in 42 U.S.C. 9607(a)(3); (c) as purchaser, with any obligation to investigate or remediate any hazardous materials associated with the Property; or (d) as a person with any control over Grantor's ability to investigate and remediate any hazardous materials associated with the Property. For the purposes of this Conservation Easement, the term "hazardous materials" shall mean any flammable, explosive or radioactive materials, hazardous materials, hazardous wastes, hazardous or toxic substances or related materials as defined in any Law.

B. The parties agree that enforcement of this Conservation Easement is essential to achieve its purposes. Therefore, the parties agree that any breach of the Conservation Easement may not be adequately compensated for by the recovery of damages, and that in addition to all other remedies available at law and equity, the parties shall be entitled to the remedy of injunction to restrain any actual or threatened violation or breach of this Conservation Easement and to compel the restoration of any portion of the Property affected by any unauthorized activity committed or permitted that is contrary to the purposes of this Conservation Easement. Except when an ongoing or imminent violation could significantly diminish or impair the purpose of the Conservation Easement, the Department shall give Grantor written notice of any violation and thirty (30) days to correct such violation or if it cannot be cured within such thirty (30) day period, thirty (30) days to commence such cure, before filing any legal or equitable action. Grantor shall not be responsible for any extraordinary damage caused primarily by any event which can reasonably be called an "Act of God." The prevailing party in any litigation shall recover the cost of suit, including reasonable attorneys' fees.

C. The terms "Grantor" and "Department," whenever used herein, and any pronouns used in place thereof, shall be held to mean and include the above-named Grantor, its successors, heirs and assigns, and the Department, its successors and assigns.

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D. The Grantor and Department intend to create through this Conservation Easement real covenants and equitable servitudes running with the land. The covenants, terms conditions and restrictions of this Conservation Easement shall run with the land and burden and benefit the interests included in the Conservation Easement and the underlying fee of the Property (reserved interests of the Grantor), and shall be binding on and inure to the benefit of the Grantor and Department and their respective successors, heirs and assigns.

E. Grantor agrees to reference this Conservation Easement in any subsequent deeds or other legal instruments which are used to convey fee interests in all or any portion of the Property.

F. Any notice required by this Conservation Easement shall be in writing and shall be personally delivered or sent by prepaid first class mail, or by other commercially acceptable means to Grantor and Department respectively at the following addresses, unless a party has been notified by the other of a change of address:

To Grantor: The Nature Conservancy
Sacramento Field Office
2015 J Street, Suite 103
Sacramento, CA 95814
Attention: Project Director, Delta Project

With an additional copy to:

The Nature Conservancy
Sacramento Field Office
Legal Department
2015 J Street, Suite 103
Sacramento, CA 95814
Attention: California Regional Attorney

To Department: Property Management Section
Division of Land and Right-of-Way
1416 Ninth Street, Room 421
Sacramento, CA 95814.

With an additional copy to:

Chief Counsel
Department of Water Resources
1416 Ninth Street, Room 1118
Sacramento, CA 94236-0001

G. If any provision of this Conservation Easement is found to be invalid or inapplicable to a particular entity, the remainder of the provisions of the Conservation Easement shall not be affected thereby.

H. The provisions of this Conservation Easement shall be liberally construed to effectuate its conservation purposes.

I. This Conservation Easement shall be interpreted pursuant to the laws of California, resolving any ambiguities and questions of the validity of specific provisions so as to give maximum effect to its conservation purposes.

J. This Conservation Easement may be amended only with the written consent of Grantor and Department, in the form of an Amended Conservation Easement, which shall be recorded in the Official Records of San Joaquin County. Any such amendment shall be consistent with all applicable Laws.

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IN WITNESS WHEREOF, the undersigned have executed this Conservation Easement as of the dates set forth besides such party's respective name.

GRANTOR:

THE NATURE CONSERVANCY,
a District of Columbia nonprofit
corporation

Date: 10/25, 2001

By: Mike Sweeney
Name: Mike Sweeney
Title: Chief Operating Officer

DEPARTMENT:

STATE OF CALIFORNIA
DEPARTMENT OF WATER
RESOURCES

Date: 10/29, 2001

By: David B. Aiken
Name: David B. Aiken
Acting Chief Counsel

Date: 10/29, 2001

By: Thomas W. Hannigan
Name: Thomas W. Hannigan
Director



01187293

STATE OF CALIFORNIA)
 COUNTY OF San Francisco)

On October 25, 2001, before me, Janice Cornwell a notary public for the state,
 personally appeared Mike Sweeney,

personally known to me - OR -
 proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me
 that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their
 signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted,
 executed the instrument.

WITNESS my hand and official seal.

Janice Cornwell
 Print Name: JANICE CORNWELL

NOTARY SEAL

STATE OF CALIFORNIA)
 COUNTY OF _____)

On _____, 2001, before me, the undersigned, a notary public for the state,
 Personally appeared _____

personally known to me - OR -
 proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me
 that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their
 signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted,
 executed the instrument.

WITNESS my hand and official seal.

 Print Name: _____

NOTARY SEAL

01187293

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California }
County of Sacramento } ss.

On October 29, 2001, before me, Mary Haney, Notary Public
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")
personally appeared David B. Anderson
Name(s) of Signer(s)

personally known to me
 proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

Mary Haney
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: [Signature]

Document Date: _____ Number of Pages: _____

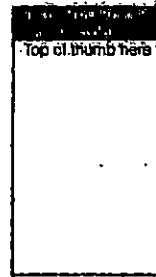
Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____

Signer is Representing: _____



01187293

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California }
County of Sacramento } ss.

On October 29, 2001, before me, Mary Haney, Notary Public
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")
personally appeared Thomas M. Hannigan
Name(s) of Signer(s)

- personally known to me
- proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/his/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

Mary Haney
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____

Signer Is Representing: _____



01187293

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

THAT CERTAIN REAL PROPERTY SITUATED IN THE STATE OF CALIFORNIA, COUNTY OF SAN JOAQUIN, CITY OF THORTON, DESCRIBED AS FOLLOWS:

PARCEL ONE:

ALL OF STATEN ISLAND BEING A PORTION OF:

TOWNSHIP 3 NORTH, RANGE 4 EAST, MOUNT DIABLO BASE AND MERIDIAN; TOWNSHIP 4 NORTH, RANGE 4 EAST, MOUNT DIABLO BASE AND MERIDIAN; TOWNSHIP 4 NORTH, RANGE 5 EAST, MOUNT DIABLO BASE AND MERIDIAN; DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE NORTH AND SOUTH FORKS OF THE MOKELUMNE RIVER IN SECTION 1, TOWNSHIP 4 NORTH, RANGE 4 EAST, MOUNT DIABLO BASE AND MERIDIAN; THENCE MEANDERING THE RIGHT BANK OF THE SOUTH FORK OF SAID MOKELUMNE RIVER DOWNSTREAM IN A SOUTHERLY AND WESTERLY DIRECTION TO THE INTERSECTION TO THE NORTH FORK TO SAID MOKELUMNE RIVER; THENCE MEANDERING THE NORTH FORK OF SAID MOKELUMNE RIVER UPSTREAM IN A NORTHERLY AND EASTERLY DIRECTION TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM THAT PORTION AS CONVEYED TO COUNTY OF SAN JOAQUIN IN DEEDS RECORDED:

JANUARY 4, 1963 IN BOOK OF OFFICIAL RECORDS BOOK 2640, PAGE 146, SAN JOAQUIN COUNTY RECORDS;

JULY 11, 1968 IN BOOK OF OFFICIAL RECORDS BOOK 3223, PAGE 378, SAN JOAQUIN COUNTY RECORDS;

JULY 26, 1968 IN BOOK OF OFFICIAL RECORDS, BOOK 3227, PAGE 199, SAN JOAQUIN COUNTY RECORDS.

ALSO EXCEPTING THEREFROM ANY AND ALL OIL, GAS, MINERALS AND OTHER HYDROCARBON SUBSTANCES LOCATED IN, ON OR UNDER SAID REAL PROPERTY TOGETHER WITH THE RIGHTS OF INGRESS, EGRESS AND ENTRY TO EXTRACT SAID OIL, GAS, MINERALS AND OTHER HYDROCARBON SUBSTANCES.

PARCEL TWO:

ANY AND ALL OIL, GAS, HYDROCARBON SUBSTANCES AND OTHER MINERALS LOCATED IN, ON OR UNDER THE PROPERTY DESCRIBED IN PARCEL ONE ABOVE, TOGETHER WITH THE RIGHT OF INGRESS, EGRESS AND SURFACE ENTRY TO EXTRACT SAID OIL, GAS, HYDROCARBON SUBSTANCES AND OTHER MINERALS.

EXHIBIT B

PERMITTED LIENS AND ENCUMBRANCES

1. through 4. are Intentionally Omitted

5. AN BASEMENT TO BRECT, CONSTRUCT, ETC., SINGLE LINES OF POLES AND WIRES SUSPENDED THEREON ETC., AND ALSO RIGHT OF WAY ALONG THE SAME OF UNIFORM WIDTH OF 8 FEET LYING EQUALLY ON EACH SAID OF CENTER THEREIN DESCRIBED, TOGETHER WITH THE RIGHT OF INGRESS AND EGRESS UPON, OVER AND ACROSS THE LANDS OF PARTY OF THE FIRST PARTY AND INCIDENTAL PURPOSES, RECORDED JANUARY 16, 1912 IN BOOK A OF DEEDS, BOOK 211, PAGE 28, SAN JOAQUIN COUNTY RECORDS.
GRANTED TO: PACIFIC GAS AND ELECTRIC COMPANY,
A CORPORATION

NOTE: BY INSTRUMENT RECORDED JANUARY 12, 1950 IN BOOK OF OFFICIAL RECORDS, BOOK 1247, PAGE 39, SAN JOAQUIN COUNTY RECORDS, A PORTION OF SAID RIGHT OF WAY WHICH WAS NO LONGER NECESSARY TO SAID GRANTEE WAS CONVEYED TO STATEN ISLAND LAND COMPANY, A CORPORATION.

NOTE: BY INSTRUMENT RECORDED MAY 4, 1953 IN BOOK OF OFFICIAL RECORDS, BOOK 1519, PAGE 57, SAN JOAQUIN COUNTY RECORDS A PORTION OF SAID RIGHT OF WAY WAS CONVEYED TO STATEN ISLAND LAND COMPANY, A CORPORATION.

6. AN BASEMENT FOR ELECTRIC TRANSMISSION LINE, ALSO A RIGHT OF WAY ALONG SAID LINE WITH THE RIGHT OF INGRESS AND EGRESS AND INCIDENTAL PURPOSES, RECORDED DECEMBER 30, 1929 IN BOOK OF OFFICIAL RECORDS, BOOK 308, PAGE 435, SAN JOAQUIN COUNTY RECORDS.
GRANTED TO: PACIFIC GAS AND ELECTRIC COMPANY

(REFERENCE BEING MADE TO THE RECORD THEREOF FOR FULL PARTICULARS)

7. AN BASEMENT FOR RIGHT OF WAY FOR ELECTRIC TRANSMISSION LINE, ALSO A RIGHT OF WAY ALONG SAID LINE WITH THE RIGHT OF INGRESS AND EGRESS AND INCIDENTAL PURPOSES RECORDED SEPTEMBER 4, 1931 IN BOOK OF OFFICIAL RECORDS, BOOK 380, PAGE 248, SAN JOAQUIN COUNTY RECORDS.
GRANTED TO: PACIFIC GAS AND ELECTRIC COMPANY,
A CORPORATION

(REFERENCE BEING MADE TO THE RECORD THEREOF FOR FULL PARTICULARS)

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8. AN EASEMENT FOR RIGHT OF WAY FOR ELECTRIC TRANSMISSION LINE, AND INCIDENTAL PURPOSES, RECORDED FEBRUARY 8, 1938 IN BOOK OF OFFICIAL RECORDS, BOOK 605, PAGE 197, SAN JOAQUIN COUNTY RECORDS.
GRANTED TO: PACIFIC GAS AND ELECTRIC COMPANY,
A CORPORATION

(REFERENCE BEING MADE TO THE RECORD THEREOF FOR FULL PARTICULARS)

9. AN EASEMENT FOR RIGHT OF WAY FOR STEEL MAST AND FOUR ANCHORS WITH RIGHT OF INGRESS AND EGRESS AND INCIDENTAL PURPOSES, RECORDED SEPTEMBER 7, 1939 IN BOOK OF OFFICIAL RECORDS, BOOK 661, PAGE 251, SAN JOAQUIN COUNTY RECORDS.
GRANTED TO: PACIFIC GAS AND ELECTRIC COMPANY,

10. AN EASEMENT FOR PERPETUAL RIGHT OF WAY TO LAY, CONSTRUCT, OPERATE, MAINTAIN AND REPLACE A PIPE LINE FOR THE TRANSPORTATION OF GAS AND OTHER SUBSTANCES WITH THE RIGHT OF INGRESS AND EGRESS AND INCIDENTAL PURPOSES, RECORDED OCTOBER 24, 1940 IN BOOK OF OFFICIAL RECORDS, BOOK 715, PAGE 260, SAN JOAQUIN COUNTY RECORDS.
GRANTED TO: CALAVERAS CEMENT COMPANY, A CORPORATION

NOTE: BY INSTRUMENT RECORDED JUNE 21, 1941 IN BOOK OF OFFICIAL RECORDS, BOOK 742, PAGE 217, SAN JOAQUIN COUNTY RECORDS, THE INTEREST OF THE ABOVE GRANTEE WAS ASSIGNED TO STANDARD OIL COMPANY OF CALIFORNIA, A CORPORATION.

11. AN EASEMENT FOR RIGHT OF WAY TO EXCAVATE FOR, INSTALL, REPLACE, MAINTAIN AND USE FOR CONVEYING GAS, SUCH PIPE LINES AS IT SHALL FROM TIME TO TIME ELECT WITH THE RIGHT OF INGRESS AND EGRESS AND INCIDENTAL PURPOSES, RECORDED NOVEMBER 15, 1940 IN BOOK OF OFFICIAL RECORDS, BOOK 708, PAGE 493, SAN JOAQUIN COUNTY RECORDS.
GRANTED TO: PACIFIC GAS AND ELECTRIC COMPANY,
A CORPORATION

A PORTION OF THE EASEMENT WAS QUIT CLAIMED BY DEED RECORDED JUNE 8, 1995 AS INSTRUMENT NO. 95051705 OF OFFICIAL RECORDS.

12. RIGHT, TITLE AND INTEREST OF THE COUNTY OF SAN JOAQUIN AS TO THAT PORTION OF PREMISES DESCRIBED IN DEED EXECUTED BY STATEN ISLAND LAND COMPANY, A CORPORATION RECORDED FEBRUARY 2, 1940 IN BOOK OF OFFICIAL RECORDS, BOOK 681, PAGE 140, SAN JOAQUIN COUNTY RECORDS.

SAID DEED RECITES THAT THE LAND IS CONVEYED FOR A PUBLIC ROAD AND PROVIDES FOR A REVERSION OF TITLE TO THE GRANTOR THEREIN IF SAID ROAD IS PERMANENTLY ABANDONED AND WHEN PROCEEDINGS ARE OF RECORD ABANDONING SAID STRIP OR TRACT FOR ROADWAY PURPOSES.

A PORTION OF THE ROAD WAS ABANDONED BY THE SAN JOAQUIN COUNTY BOARD OF SUPERVISORS BY THE RESOLUTION RECORDED JANUARY 21, 1988 AS INSTRUMENT NO. 88006697 OF OFFICIAL RECORDS.

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13. AN EASEMENT FOR RIGHT OF WAY FOR ELECTRIC TRANSMISSION LINES OF THE UNIFORM WIDTH OF 50 FEET PARALLEL WITH AND CONTIGUOUS TO THE WESTERLY BOUNDARY OF STATEN ISLAND ROAD AND INCIDENTAL PURPOSES, RECORDED JANUARY 27, 1950 IN BOOK OF OFFICIAL RECORDS, BOOK 1242, PAGE 220, SAN JOAQUIN COUNTY RECORDS.
GRANTED TO: PACIFIC GAS AND ELECTRIC COMPANY, A CALIFORNIA CORPORATION

14. AN EASEMENT FOR CONSTRUCTION, MAINTENANCE AND USE OF A SINGLE LINE OF POLES AND WIRES SUSPENDED THEREON AND INCIDENTAL PURPOSES, RECORDED JANUARY 12, 1950 IN BOOK OF OFFICIAL RECORDS, BOOK 1247, PAGE 28, SAN JOAQUIN COUNTY RECORDS.
GRANTED TO: PACIFIC GAS AND ELECTRIC COMPANY, A CORPORATION

BY INSTRUMENT RECORDED JANUARY 12, 1950 IN BOOK OF OFFICIAL RECORDS, BOOK 1247, PAGE 39, SAN JOAQUIN COUNTY RECORDS, A PORTION OF SAID EASEMENT WHICH WAS NO LONGER NECESSARY TO GRANTEE WAS CONVEYED TO STATEN ISLAND LAND COMPANY A CORPORATION, ALSO BY INSTRUMENT RECORDED MAY 4, 1953 IN BOOK OF OFFICIAL RECORDS, BOOK 1519, PAGE 571, SAN JOAQUIN COUNTY RECORDS, A PORTION OF SAID EASEMENT WAS QUIT-CLAIMED TO STATEN ISLAND LAND COMPANY, A CORPORATION.

SAID EASEMENT INCLUDES THE RIGHT OF INGRESS AND EGRESS

15. AN EASEMENT FOR RIGHT OF WAY FOR ELECTRICAL TRANSMISSION LINES AND INCIDENTAL PURPOSES, RECORDED JUNE 2, 1953 IN BOOK OF OFFICIAL RECORDS, BOOK 1529, PAGE 214, SAN JOAQUIN COUNTY RECORDS
GRANTED TO: PACIFIC GAS AND ELECTRIC COMPANY, A CALIFORNIA CORPORATION

16. RIGHT, TITLE AND INTEREST OF THE COUNTY OF SAN JOAQUIN AS TO THAT PORTION OF PREMISES DESCRIBED IN DEED EXECUTED BY STATEN ISLAND LAND COMPANY, A CORPORATION RECORDED JANUARY 6, 1954 IN BOOK OF OFFICIAL RECORDS, BOOK 1592, PAGE 257, SAN JOAQUIN COUNTY RECORDS.

SAID DEED RECITES THAT THE LAND IS CONVEYED FOR A PUBLIC ROAD AND PROVIDES FOR A REVERSION OF TITLE TO THE GRANTOR THEREIN IF SAID ROAD IS PERMANENTLY ABANDONED AND WHEN PROCEEDINGS ARE OF RECORD ABANDONING SAID STRIP OR TRACT FOR ROADWAY PURPOSES.
[AFFECTS PORTION OF SECTION 2, TOWNSHIP 4 NORTH, RANGE 4 EAST, MOUNT DIABLO BASE AND MERIDIAN]

17. AN OIL AND GAS LEASE EXECUTED BY M & T INCORPORATED [AS LESSOR] AND THE DOW CHEMICAL COMPANY, A CORPORATION [AS LESSEE] RECORDED NOVEMBER 2, 1959 IN BOOK OF OFFICIAL RECORDS, BOOK 2232, PAGE 115, SAN JOAQUIN COUNTY RECORDS.

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THE LESSOR'S INTEREST UNDER THE LEASE HAS BEEN ASSIGNED TO UNION OIL COMPANY OF CALIFORNIA, A CALIFORNIA CORPORATION BY ASSIGNMENT RECORDED JANUARY 20, 1967 IN BOOK OF OFFICIAL RECORDS, BOOK 3099, PAGE 461, SAN JOAQUIN COUNTY RECORDS. [AFFECTS ONLY PORTION OF PREMISES DESCRIBED HEREIN].

18. AN EASEMENT FOR RIGHT OF WAY FOR PIPELINE 20 FEET IN WIDTH, TOGETHER WITH A RIGHT OF ENTRY AND INCIDENTAL PURPOSES, RECORDED MARCH 30, 1960 IN BOOK OF OFFICIAL RECORDS, BOOK 2283, PAGE 262, SAN JOAQUIN COUNTY RECORDS.

GRANTED TO: PACIFIC GAS AND ELECTRIC COMPANY,
A CORPORATION
AFFECTS: PORTION

19. AN EASEMENT FOR RIGHT OF WAY FOR PIPELINE 20 FEET IN WIDTH, TOGETHER WITH A RIGHT OF ENTRY AND INCIDENTAL PURPOSES, RECORDED NOVEMBER 4, 1960 IN BOOK OF OFFICIAL RECORDS, BOOK 2351, PAGE 84, SAN JOAQUIN COUNTY RECORDS.

GRANTED TO: PACIFIC GAS AND ELECTRIC COMPANY,
A CORPORATION
AFFECTS: PORTION

NOTE: SAID LEASE WAS PARTIALLY QUITCLAIM BY INSTRUMENT RECORDED OCTOBER 15, 1999, SERIES NO. 99-130209

20. AN EASEMENT FOR RIGHT OF WAY FOR PIPELINE 20 FEET IN WIDTH, TOGETHER WITH A RIGHT OF ENTRY AND INCIDENTAL PURPOSES, RECORDED DECEMBER 1, 1961 IN BOOK OF OFFICIAL RECORDS, BOOK 2484, PAGE 523, SAN JOAQUIN COUNTY RECORDS.

GRANTED TO: PACIFIC GAS AND ELECTRIC COMPANY,
A CORPORATION
AFFECTS: PORTION

21. AN EASEMENT FOR RIGHT OF WAY FOR PIPELINE 20 FEET IN WIDTH, TOGETHER WITH A RIGHT OF ENTRY AND INCIDENTAL PURPOSES, RECORDED MARCH 26, 1962 IN BOOK OF OFFICIAL RECORDS, BOOK 2529, PAGE 270, SAN JOAQUIN COUNTY RECORDS.

GRANTED TO: PACIFIC GAS AND ELECTRIC COMPANY,
A CORPORATION
AFFECTS: PORTION

22. AN EASEMENT FOR RIGHT OF WAY FOR PIPELINE 20 FEET IN WIDTH, TOGETHER WITH A RIGHT OF ENTRY AND INCIDENTAL PURPOSES, RECORDED MAY 18, 1962 IN BOOK OF OFFICIAL RECORDS, BOOK 2551, PAGE 170, SAN JOAQUIN COUNTY RECORDS.

GRANTED TO: PACIFIC GAS AND ELECTRIC COMPANY,
A CORPORATION
AFFECTS: PORTION

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23. AN EASEMENT FOR RIGHT OF WAY FOR PIPELINE 20 FEET IN WIDTH, TOGETHER WITH A RIGHT OF ENTRY AND INCIDENTAL PURPOSES, RECORDED JUNE 11, 1964 IN BOOK OF OFFICIAL RECORDS, BOOK 2832, PAGE 270, SAN JOAQUIN COUNTY RECORDS.
GRANTED TO: PACIFIC GAS AND ELECTRIC COMPANY,
A CORPORATION
AFFECTS: PORTION
24. AN EASEMENT FOR RIGHT OF WAY FOR PIPELINE 20 FEET IN WIDTH, TOGETHER WITH A RIGHT OF ENTRY AND INCIDENTAL PURPOSES, RECORDED MAY 18, 1967 IN BOOK OF OFFICIAL RECORDS, BOOK 3124, PAGE 577, SAN JOAQUIN COUNTY RECORDS.
GRANTED TO: PACIFIC GAS AND ELECTRIC COMPANY,
A CORPORATION
AFFECTS: PORTION
25. AN EASEMENT FOR RIGHT OF WAY FOR PIPELINE 20 FEET IN WIDTH, TOGETHER WITH A RIGHT OF ENTRY AND INCIDENTAL PURPOSES, RECORDED JULY 31, 1968 IN BOOK OF OFFICIAL RECORDS, BOOK 3228, PAGE 200, SAN JOAQUIN COUNTY RECORDS.
GRANTED TO: PACIFIC GAS AND ELECTRIC COMPANY,
A CORPORATION
AFFECTS: PORTION
26. AN EASEMENT FOR RIGHT OF WAY FOR PIPELINE 20 FEET IN WIDTH, TOGETHER WITH A RIGHT OF ENTRY AND INCIDENTAL PURPOSES, RECORDED AUGUST 29, 1968 IN BOOK OF OFFICIAL RECORDS, BOOK 3235, PAGE 303, SAN JOAQUIN COUNTY RECORDS.
GRANTED TO: PACIFIC GAS AND ELECTRIC COMPANY,
A CORPORATION
AFFECTS: PORTION
27. AN EASEMENT FOR UNDERGROUND CONDUITS, WIRES AND CABLE 10 FEET IN WIDTH, TOGETHER WITH RIGHT OF ENTRY AND INCIDENTAL PURPOSES, RECORDED JANUARY 7, 1970 IN BOOK OF OFFICIAL RECORDS, BOOK 3353, PAGE 57, SAN JOAQUIN COUNTY RECORDS
GRANTED TO: GENERAL TELEPHONE COMPANY OF CALIFORNIA,
A CALIFORNIA CORPORATION
28. AN EASEMENT FOR RIGHT OF WAY FOR PIPELINE 20 FEET IN WIDTH TOGETHER WITH RIGHT OF ENTRY AND INCIDENTAL PURPOSES, RECORDED NOVEMBER 19, 1971 IN BOOK OF OFFICIAL RECORDS, BOOK 3597, PAGE 401, SAN JOAQUIN COUNTY RECORDS.
GRANTED TO: PACIFIC GAS AND ELECTRIC COMPANY,
A CORPORATION
AFFECTS: PORTION

29. AN EASEMENT FOR UNDERGROUND CONDUITS, WIRES AND CABLE 10 FEET IN WIDTH, TOGETHER WITH RIGHT OF ENTRY AND INCIDENTAL PURPOSES, RECORDED MAY 5, 1972 IN BOOK OF OFFICIAL RECORDS, BOOK 3649, PAGE 39, SAN JOAQUIN COUNTY RECORDS
 GRANTED TO: GENERAL TELEPHONE COMPANY OF CALIFORNIA,
 A CALIFORNIA CORPORATION
30. CALIFORNIA LAND CONSERVATION CONTRACT NO. 75-C1-64
 BY: THE COUNTY OF SAN JOAQUIN, A POLITICAL
 SUBDIVISION OF THE STATE OF CALIFORNIA
 (COUNTY)
 AND BETWEEN: M & T INCORPORATED, A NEVADA CORPORA
 TION OR THE SUCCESSORS THEREOF (OWNER)
 RECORDED: JANUARY 20, 1974
 OFFICIAL RECORDS: BOOK 3938, PAGE 487
31. AN EASEMENT FOR POLES, AERIAL WIRES, CABLES, ELECTRICAL CONDUCTORS WITH ASSOCIATED CROSSARMS, BRACES, TRANSFORMERS, ANCHORS, GUY WIRES AND CABLES, FIXTURES AND INGRESS AND EGRESS AND INCIDENTAL PURPOSES, RECORDED DECEMBER 10, 1980 AS INSTRUMENT NO. 80083247 OF OFFICIAL RECORDS.
 GRANTED TO: PACIFIC GAS AND ELECTRIC COMPANY, A CALIFORNIA CORPORATION
 [AFFECTS A PORTION OF SECTIONS 9 AND 10, TOWNSHIP 3 NORTH, RANGE 4 EAST, MOUNT DIABLO BASE AND MERIDIAN LYING NORTHERLY OF THE SOUTH FORK OF THE MOKELUMNE RIVER]
32. EASEMENTS RESERVED TO PACIFIC GAS AND ELECTRIC COMPANY FOR GAS PIPE LINES AND ELECTRICAL FACILITIES OVER THAT PORTION OF STATEN ISLAND ROAD VACATED BY THE SAN JOAQUIN COUNTY BOARD OF SUPERVISORS RESOLUTION RECORDED JANUARY 21, 1988 AS INSTRUMENT NO. 88006697 OF OFFICIAL RECORDS.
33. COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS AS CONTAINED IN THE CONSERVATION EASEMENT GRANTED TO THE DELTA PROTECTION COMMISSION RECORDED NOVEMBER 8, 1994 AS INSTRUMENT NO. 94122682 OF OFFICIAL RECORDS.
 (REFERENCE BEING MADE TO THE RECORD THEREOF FOR FULL PARTICULARS)
34. AN EASEMENT FOR VARIOUS PURPOSES AS DESCRIBED THEREIN AND INCIDENTAL PURPOSES, RECORDED FEBRUARY 13, 1995 AS INSTRUMENT NO. 95012293 OF OFFICIAL RECORDS.
 GRANTED TO: PACIFIC GAS AND ELECTRIC COMPANY, A CALIFORNIA CORPORATION
 (REFERENCE BEING MADE TO THE RECORD THEREOF FOR FULL PARTICULARS)

29. AN EASEMENT FOR UNDERGROUND CONDUITS, WIRES AND CABLE 10 FEET IN WIDTH, TOGETHER WITH RIGHT OF ENTRY AND INCIDENTAL PURPOSES RECORDED MAY 5, 1972 IN BOOK OF OFFICIAL RECORDS, BOOK 3649, PAGE 39, SAN JOAQUIN COUNTY RECORDS
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 OR THE SUCCESSORS THEREOF (OWNER)
 RECORDED: JANUARY 20, 1974
 OFFICIAL RECORDS: BOOK 3938, PAGE 487
31. AN EASEMENT FOR POLES, AERIAL WIRES, CABLES, ELECTRICAL CONDUCTORS WITH ASSOCIATED CROSSARMS, BRACES, TRANSFORMERS, ANCHORS, GUY WIRES AND CABLES, FIXTURES AND INGRESS AND EGRESS AND INCIDENTAL PURPOSES, RECORDED DECEMBER 10, 1980 AS INSTRUMENT NO. 80083247 OF OFFICIAL RECORDS.
 GRANTED TO: PACIFIC GAS AND ELECTRIC COMPANY, A CALIFORNIA CORPORATION
 [AFFECTS A PORTION OF SECTIONS 9 AND 10, TOWNSHIP 3 NORTH, RANGE 4 EAST, MOUNT DIABLO BASE AND MERIDIAN LYING NORTHERLY OF THE SOUTH FORK OF THE MOKELUMNE RIVER]
32. EASEMENTS RESERVED TO PACIFIC GAS AND ELECTRIC COMPANY FOR GAS PIPE LINES AND ELECTRICAL FACILITIES OVER THAT PORTION OF STATEN ISLAND ROAD VACATED BY THE SAN JOAQUIN COUNTY BOARD OF SUPERVISORS RESOLUTION RECORDED JANUARY 21, 1988 AS INSTRUMENT NO. 85006697 OF OFFICIAL RECORDS.
33. COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS AS CONTAINED IN THE CONSERVATION EASEMENT GRANTED TO THE DELTA PROTECTION COMMISSION RECORDED NOVEMBER 8, 1994 AS INSTRUMENT NO. 94122682 OF OFFICIAL RECORDS.
 (REFERENCE BEING MADE TO THE RECORD THEREOF FOR FULL PARTICULARS)
34. AN EASEMENT FOR VARIOUS PURPOSES AS DESCRIBED THEREIN AND INCIDENTAL PURPOSES, RECORDED FEBRUARY 13, 1995 AS INSTRUMENT NO. 95012293 OF OFFICIAL RECORDS.
 GRANTED TO: PACIFIC GAS AND ELECTRIC COMPANY, A CALIFORNIA CORPORATION
 (REFERENCE BEING MADE TO THE RECORD THEREOF FOR FULL PARTICULARS)

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35. AN OIL AND GAS LEASE EXECUTED BY PACIFIC REALTY ASSOCIATES, L.P., A DELAWARE LIMITED PARTNERSHIP, AS LESSOR AND ENRON OIL & GAS COMPANY, A DELAWARE CORPORATION AS LESSEE, RECORDED OCTOBER 8, 1996 AS INSTRUMENT NO. 96102331 OF OFFICIAL RECORDS [AFFECTS A PORTION OF SAID LAND]

PORTIONS OF SAID LAND WERE QUITCLAIMED BY DEED RECORDED OCTOBER 15, 1999 AS INSTRUMENT NO. 99130208 OF OFFICIAL RECORDS.

NOTE: DEFECTS, LIENS, ENCUMBRANCES OR OTHER MATTERS AFFECTING THE LEASEHOLD ESTATE, WHETHER OR NOT SHOWN BY THE PUBLIC RECORDS

36. AN OIL AND GAS LEASE EXECUTED BY PACIFIC REALTY ASSOCIATES, L.P., A DELAWARE LIMITED PARTNERSHIP, AS LESSOR AND ENRON OIL & GAS COMPANY, A DELAWARE CORPORATION AS LESSEE, RECORDED OCTOBER 22, 1996 AS INSTRUMENT NO. 96107016 OF OFFICIAL RECORDS. [AFFECTS A PORTION OF SAID LAND]

NOTE: DEFECTS, LIENS, ENCUMBRANCES OR OTHER MATTERS AFFECTING THE LEASEHOLD ESTATE, WHETHER OR NOT SHOWN BY THE PUBLIC RECORDS.

37. AN OIL AND GAS LEASE EXECUTED BY PACIFIC REALTY ASSOCIATES L.P., A DELAWARE LIMITED PARTNERSHIP, AS LESSOR AND ENRON OIL & GAS COMPANY, A DELAWARE CORPORATION AS LESSEE, RECORDED APRIL 21, 1998 AS INSTRUMENT NO. 98045784 OF OFFICIAL RECORDS. [AFFECTS A PORTION OF SAID LAND]

NOTE: DEFECTS, LIENS, ENCUMBRANCES OR OTHER MATTERS AFFECTING THE LEASEHOLD ESTATE, WHETHER OR NOT SHOWN BY THE PUBLIC RECORDS

38. AN EASEMENT FOR CONSTRUCTION AND MAINTENANCE OF A GAS PIPELINE AND INCIDENTAL PURPOSES, RECORDED JULY 24, 2000 AS INSTRUMENT NO. 00083131 OF OFFICIAL RECORDS.

GRANTED TO: LODI GAS STORAGE LLC., A DELAWARE LIMITED LIABILITY COMPANY

AFFECTS: AS DESCRIBED THEREIN

39. A DOCUMENT ENTITLED "EASEMENT AND MAINTENANCE AGREEMENT", EXECUTED BY AND BETWEEN PACIFIC REALTY ASSOCIATES, L.P., A DELAWARE LIMITED PARTNERSHIP AND GEORGE C. "TIM" WILSON, DIXIE WILSON, AS HUSBAND AND WIFE, AND THEIR SONS, CHILES WILSON, DANIEL WILSON AND DARRELL WILSON, RECORDED AUGUST 29, 2001, AS INSTRUMENT NO. 01141678 OF OFFICIAL RECORDS.

40. AN UNRECORDED LEASE BY AND BETWEEN THE NATURE CONSERVANCY A D.C. NON-PROFIT CORPORATION AND PACIFIC REALTY ASSOCIATES, L.P., A DELAWARE LIMITED PARTNERSHIP

01187293

EXHIBIT C

PROHIBITED PLANTS

None of the following plant, tree or weed species shall be planted on the Property:

Arundo or Giant Reed
Tree of Heaven or Ailanthus
Pampas Grass
Edible fig
Himalayan Blackberry
Elm
Mulberry (female plants)
Chinese pistachio
English Ivy
Yellow star-thistle
Medusahead
Klamathweed
English walnut
Black locust
Periwinkle
African Daisy
Artichoke thistle
Castor bean
Eucalyptus
Eurasian mustard
Fountain grass
Italian -- Mediterranean olive
Milk thistle
Russian olive
Salt cedar (Tamarisk)
Tree tobacco

Arundo donax
Ailanthus altissima
Cortaderia jubata or *C. selloana*
Ficus carica
Rubus discolor
Ulmus sp.
Morus alba
Pistacia atlantica or *P. chinensis*
Hedera helix
Centurea solstitialis
Taeniatherum caput-medusae
Hypericum perforatum
Juglans regia
Robinia pseudoacacia
Vinca major

81187293

(CERTIFICATE OF ACCEPTANCE, GOVERNMENT CODE, SECTION 27261)

This is To Certify, That the State of California, grantee herein, acting by and through the California Department of Water Resources, hereby accepts for public purposes the real property, or interest therein, described in the within deed and consents to the recordation thereof.

In Witness Whereof, I have hereunto set my hand this 14th day of November, 2001.

Director of Water Resources

By *Frank Florio*

Attorney in Fact

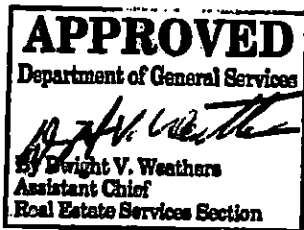
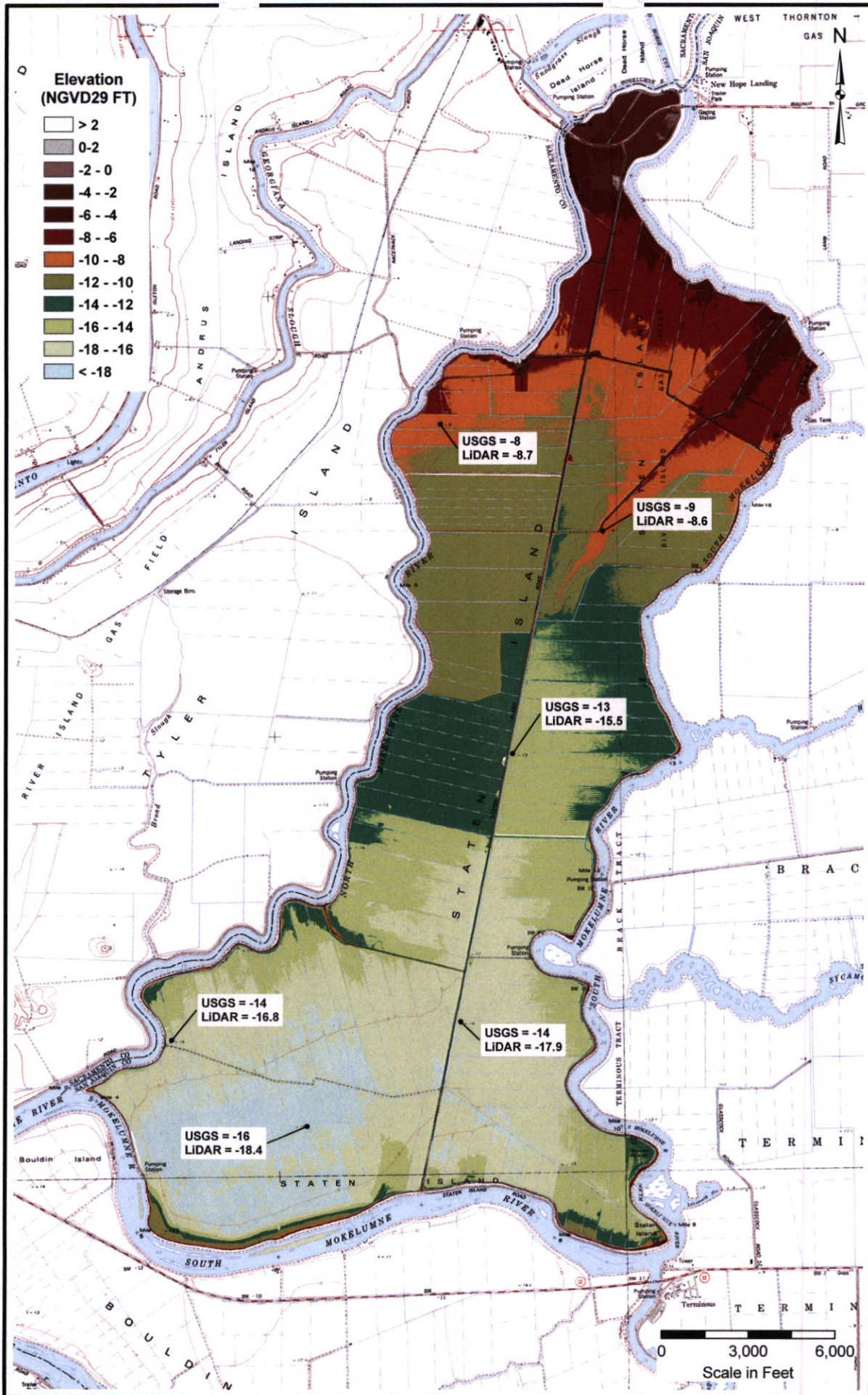


Exhibit C



Elevation
(NGVD29 FT)

- > 2
- 0-2
- 2-0
- 4--2
- 6--4
- 8--6
- 10--8
- 12--10
- 14--12
- 16--14
- 18--16
- < -18

USGS = -8
LIDAR = -8.7

USGS = -9
LIDAR = -8.6

USGS = -13
LIDAR = -15.5

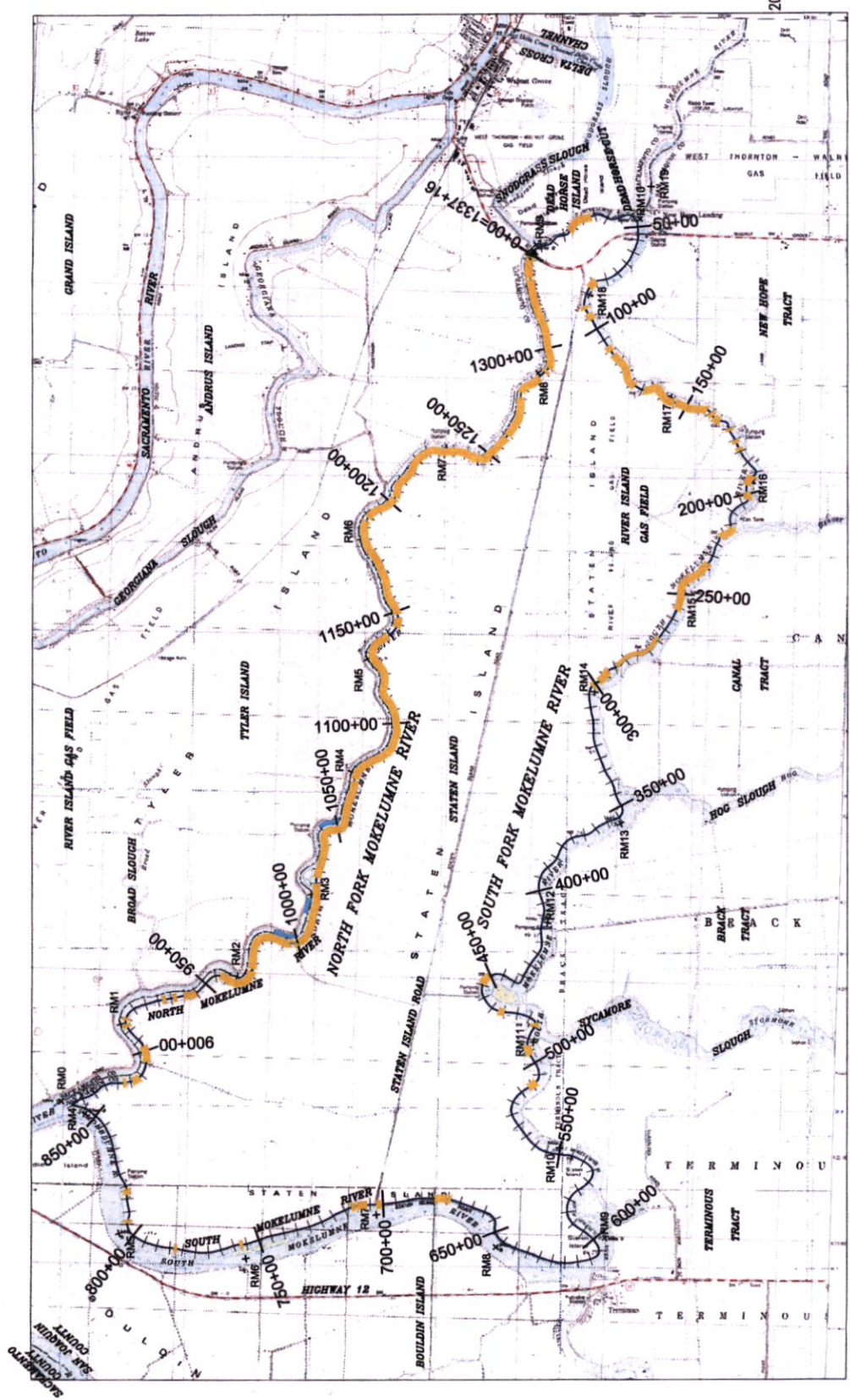
USGS = -14
LIDAR = -16.8

USGS = -14
LIDAR = -17.9

USGS = -16
LIDAR = -18.4

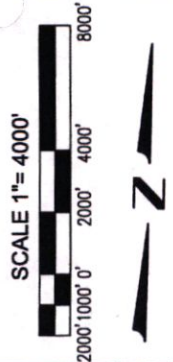
0 3,000 6,000
Scale in Feet

Exhibit D



LEGEND	
111+11	STATION
—	PL84-99 STD
—	HMP LEVEE STD

LEGEND	
—	LEVEE DEFICIENCY
—	WATERSIDE EROSION
—	PL84-99 ELEV AND/OR GEOMETRY DEFICIENCY



7702.07
 EXHIBIT 6-1
 ASSESSMENT OF EXISTING
 LEVEE SYSTEM
 6-3
 SCALE: 1"=4000'

RECLAMATION DISTRICT 38
 STATEN ISLAND
 5-YEAR PLAN

PLANNING
 PERMITTING
 ARCHITECTURE
 CIVIL ENGINEERING
 PROJECT MANAGEMENT
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 DATE: 12-30-2011