



**Napa County Regional Park  
and Open Space District**

Harold Kelly  
*Director Ward One*

Tony Norris  
*Director Ward Two*

Guy Kay  
*Director Ward Three*

Dave Finigan  
*Director Ward Four*

Myrna Abramowicz  
*Director Ward Five*

## AGENDA

### BOARD OF DIRECTORS SPECIAL MEETING

**Monday May 11, 2009 2:00 P.M.**  
1195 Third Street, Third Floor, Napa, CA 94559

#### GENERAL INFORMATION

Agenda items will generally be considered in the order indicated below, except for Set Matters, which will be considered at the time indicated. Agenda items may from time to time be taken out of order at the discretion of the President.

The meeting room is wheelchair accessible. Assistive listening devices and interpreters are available through the District Secretary. Requests for disability related modifications or accommodations, aids, or services may be made to the Secretary's office no less than 48 hours prior to the meeting date by contacting (707) 259-8603.

Any member of the audience desiring to address the District on a matter on the Agenda, please proceed to the rostrum and, after receiving recognition from the President, give your name, address, and your comments or questions. In order that all interested parties have an opportunity to speak, please be brief and limit your comments to the specific subject under discussion. Time limitations shall be at the discretion of the President.

State law requires agency officers (Directors and Officers) to disclose, and then be disqualified from participation in, any proceeding involving a license, permit, or other entitlement for use, if the officer has received from any participant in the proceeding an amount exceeding \$250 within the prior 12 month period. State law also requires any participant in a proceeding to disclose on the record any such contributions to an agency officer.

All materials relating to an agenda item for an open session of a regular meeting of the Board of Supervisors which are provided to a majority or all of the members of the Board by Board members, staff or the public within 72 hours of but prior to the meeting will be available for public inspection, on and after at the time of such distribution, in the Conservation, Development and Planning Department Office at 1195 Third Street, Suite 210, Napa, California 94559, Monday through Friday, between the hours of 8:00 a.m. and 5:00 p.m., except for County holidays. Materials distributed to a majority or all of the members of the Board at the meeting will be available for public inspection at the public meeting if prepared by the members of the Board or County staff and after the public meeting if prepared by some other person. Availability of materials related to agenda items for public inspection does not include materials which are exempt from public disclosure under Government Code sections 6253.5, 6254, 6254.3, 6254.7, 6254.15, 6254.16, or 6254.22.

#### 1. Call to Order

#### 2. Public Comment

In this time period, anyone may address the Board of Directors regarding any subject over which the Board has jurisdiction but which is not on today's posted agenda. In order to provide all interested parties an opportunity to speak, time limitations shall be at the discretion of the President. As required by Government Code, no action or discussion will be undertaken on any item raised during this Public Comment period.

### 3. Set Matters

None

### 4. Administrative Items

- A. Consideration of and potential approval of Minutes of Board of Directors meeting of April 20, 2009.
- B. Consideration of and potential approval of a Professional Services Agreement with Questa Engineering to prepare plans and specifications and apply to the Public Utilities Commission for a public crossing of the SMART railroad north of Green Island Road to accommodate the Napa River and Bay Trail.
- C. Receipt of FY2008-9 Third Quarter Financial Statements and consideration of and potential approval of revisions to the District budget for FY 2008-9.
- D. Consideration of and potential adoption of District budget for FY 2009-10.
- E. Consideration of and potential approval of policies and procedures as guidelines for monitoring and enforcement of District-held conservation easements.
- F. Receipt of report on expenditures, encumbrances and donations approved by the General Manager.
- G. Discussion of logistics for the volunteer weekend at Moore Creek on May 15-17, 2009 (oral staff report).
- H. Update on Napa Valley Vine Trail project (oral staff report).
- I. Update on Camp Berryessa project (oral staff report).
- J. Review of the District Projects Status Report.

### 5. Announcements by Board and Staff

In this time period, members of the Board of Directors and staff will announce meetings, events and other matters of interest. No action will be taken by the Board on any announcements.

### 6. Agenda Planning

In this time period, members of the Board of Directors and staff will discuss matters for possible consideration at future meetings. No action will be taken by the Board other than whether and when to agendize such matters, unless specifically noted otherwise.

### 7. Adjournment



Napa County Regional Park  
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Harold Kelly  
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Guy Kay  
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Dave Finigan  
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Myrna Abramowicz  
Director Ward Five

## DRAFT MINUTES

### BOARD OF DIRECTORS SPECIAL MEETING

Monday April 20, 2009 2:00 P.M.  
1195 Third Street, Third Floor, Napa, CA 94559

1. Call to Order

Meeting was called to order at 2:00 p.m.

Directors Harold Kelly, Dave Finigan, Guy Kay, Myrna Abramowicz, and Tony Norris present.

2. Public Comment

None.

3. Set Matters

A. 2:10 pm

Discussion with Registrar of Voters regarding the November 2008 Napa County Regional Park and Open Space District Election

John Tutor led the discussion on candidate costs, postage, and department billing.

4. Administrative Items

A. Consideration of and potential approval of Minutes of Board of Directors meeting of March 9, 2009.

Minutes were approved as presented.

B. Consideration of and potential action on state legislation:

i. Assembly Bill 979 (Berryhill)—local regulation of fishing and hunting

ii. Senate Bill 211 (Simitian)—formation of regional park and open space district in Santa Cruz County.

Directors voted to adopt District positions on, and authorize the Board President and/or General Manager to send letters communicating the District's position on the following bills:

• AB 979 (Berryhill)—oppose

MA-TN-GK-HK-DF

• SB 211 (Simitian)—support

TN-HK-MA-GK-DF

- C. Consideration of report from the Board ad hoc subcommittee working on the development of a District non-profit foundation, and potential direction on next steps.  
Board voted to endorse the proposed concept of the foundation and the general approval of the fact sheet.  
MA-TN-GK-HK-DF
- D. Receipt of report on expenditures, encumbrances and donations approved by the General Manager.  
John Woodbury gave the report.
- E. Update on planning and improvements at the District's Moore Creek property (oral report).  
John Woodbury gave the report with discussions on the upcoming May 16-18, 2009 scheduled work party, miscellaneous maintenance issues, and long term approach for the Property.
- F. Update on Skyline Wilderness Park Master Plan and rezoning (oral report)  
Director Harold Kelly and John Woodbury gave updates on the draft master plan and its purpose to document what is at the park today, and set policy guidelines on appropriate uses and appropriate governance for the park over the long term.
- G. Review of Projects Status Report.  
John Woodbury gave the report with discussion on the Napa River and Bay Trail, Berryessa Estates, Blue Ridge/Berryessa Peak, Camp Berryessa, Lake Hennessey, Miliken Reservoir, Newell Preserve, Skyline Park, Oat Hill Mine Trail, South Napa Wetlands, and River to Ridge Trail.
5. Announcements by Board and Staff
- ▶ John Woodbury announced:
    - Saturday April 25, 2009 is Earth Day
    - Saturday May 2, 2009 is Healthy People Healthy Planet Day
    - Thursday May 21, 2009 is the Watershed Symposium
  - ▶ Director Dave Finigan announced the Park District will take the Master Plan to the Board of Supervisors sometime in mid summer.
  - ▶ Director Tony Norris announced that on April 22, 2009 there will be a dedication for the new Nature Center at Lake Solano Regional Park.
  - ▶ Director Harold Kelly announced that he and John Woodbury will give a presentation on the Open Space District on April 29, 2009 at the Napa Noon Rotary Club meeting.
6. Agenda Planning
7. Adjournment  
Meeting was adjourned to the Regular Park & Open Space District Meeting on May 11, 2009.



Napa County Regional Park  
and Open Space District

## **STAFF REPORT**

Date: May 11, 2009

Agenda Item: 4.b

Subject: Consideration of and potential approval of professional services contract with Questa Engineering to prepare plans and specifications and apply to the Public Utilities Commission for a public crossing of the SMART railroad north of Green Island Road to accommodate the Napa River and Bay Trail

### Recommendation

Authorize General Manager to execute professional services agreement with Questa Engineering not to exceed \$16,500 to prepare plans and specifications and apply to the Public Utilities Commission for a public crossing of the SMART railroad tracks north of Green Island Road.

### Background

Questa Engineering in 2007 completed a feasibility study for a segment of the Napa River and Bay Trail between the cities of American Canyon and Napa. As part of that study, Questa contacted both the SMART transit district and the Public Utilities Commission about the potential for converting an existing private crossing of the SMART tracks into a public crossing to accommodate the trail. Staff from the two agencies verbally indicated permission for such a crossing should be obtainable.

Obtaining approval for the crossing is a necessary step prior to seeking funding for the section of the trail immediately north of Green Island Road.

In order to obtain the crossing approval, nearly complete engineering drawings are required. Questa Engineering is uniquely qualified to do this work since (a) they are already familiar with the trail project, local databases, and the appropriate contact agencies and people, and (b) they have previously designed virtually the same crossing plans for a similar crossing the the same SMART tracks at a location in Sonoma County.



Napa County Regional Park  
and Open Space District

## STAFF REPORT

Date: May 11, 2009  
Agenda Item: 4.c  
Subject: Receipt of FY2008-9 Third Quarter Financial Statement and consideration of and potential approval of revisions to the District budget for FY 2008-9.

### Recommendation

- (1) Receive the attached Third Quarter Financial Statement.
- (2) Approve recommended budget adjustments for FY 2008-9

### Background

Operating revenues and expenses are very close to what was budgeted as of the February 2009 budget revision approved by the Board. Overall, revenues and expenses through the end of the third quarter of the fiscal year are lower than budget because of delays in several capital projects due to circumstances beyond the control of the District. These revenues and expenses will be shifted to the next fiscal year.

Based on actual revenues and expenses for the first three quarters of the fiscal year, the following budget adjustments are recommended:

- (1) Reduce county contract professional services expenses from \$215,000 to \$210,000.
- (2) Increase legal services from \$10,000 to \$11,000.
- (3) Reduce office/facility expenses from \$1,500 to \$1,000.
- (4) Increase audit and accounting expenses from \$5,600 to \$6,200
- (5) Increase training from \$250 to \$300.
- (6) Reduce Napa River and Bay Trail project from \$50,000 to \$25,000.
- (7) Reduce Oat Hill Mine Trail from \$41,192 to \$1,768.
- (8) Reduce Napa River Ecological Reserve from \$38,750 to \$13,750.

**NAPA COUNTY REGIONAL PARK AND OPEN SPACE DISTRICT**  
**Financial Statements**  
**Third Quarter**

	Adopted Budget	Budget Adjustments	Revised (2/09) Budget	Y-T-D Actuals	Remaining Budget	Accruals or Encumbrances	Percent of Budget w/Accruals	(Percent Target = 58%) Explanation of Major Variances
<b>Revenues</b>								
Interest	\$ -	\$ -	\$ -	\$ 672	\$ 672	\$ -		
St: Coastal Conservancy	70,000	-	25,000	-	25,000	-	0.00%	will likely roll over to next fiscal year
County of Napa	446,992	13,750	478,827	237,515	241,312	-	49.60%	
Elections Services	130,000	-	30,000	30,442	(442)	-	101.47%	
Donations	-	-	-	-	-	-		
Moore Creek Rev and Grants		288,112	317,832	316,424	-	-		excludes acquisition grants paid directly to escrow
<b>Total Revenues</b>	<b>\$ 646,992</b>	<b>\$ 301,862</b>	<b>\$ 851,659</b>	<b>\$ 585,053</b>	<b>\$ 266,542</b>	<b>\$ -</b>	<b>68.70%</b>	
<b>Expenditures</b>								
Insurance	2,060	-	2,000	1,464	536	-	73.22%	
Napa River & Bay Trail	50,000	-	50,000	-	50,000	-	0.00%	work starting June 2009
Oat Hill Mine Trail	41,192	-	41,192	1,768	39,424	-	4.29%	work postponed to next year pending resolution of litigation
Camp Berryessa	77,700	-	50,000	12,386	37,614	37,604	99.98%	
Napa River Ecological Preserve	70,000	-	25,000	-	25,000	-	0.00%	will likely roll over to next fiscal year
Memberships	1,600	-	1,500	600	900	-	40.00%	awaiting annual membership invoices
Office Expense	1,750	-	1,500	551	949	-	36.77%	PSS:Administration overhead charge covers most office expenses
PSS: Legal Expense	8,240	-	10,000	9,192	808	-	91.92%	
PSS: Audit and Accounting Services	5,150	-	5,600	5,784	(184)	-	103.29%	full-year audit contract encumbered
PSS: Elections Services	130,000	-	30,000	30,442	(442)	-	101.47%	
PSS: Other	51,800	27,000	79,000	42,442	36,558	34,590	97.51%	full-year of contracted outreach/field services encumbered
PSS: Administration	170,000	-	215,000	153,426	61,574	-	71.36%	
SDE: Other	35,500	(27,000)	8,000	4,780	3,220	154	61.67%	
SDE: Ecology Preserve	-	13,750	13,750	9,694	4,056	2,740	90.43%	full year expense already encumbered
SDE: Berryessa Vista			35					
Transportation & Travel	1,000	-	1,000	828	172	-	82.81%	
Training	1,000	-	250	250	-	-	100.00%	
Moore Creek Land and Expenses		317,832	317,832	278,217	39,615	-		excludes acquisition grants paid directly to escrow
<b>Total Expenditures</b>	<b>\$ 646,992</b>	<b>\$ 331,582</b>	<b>\$ 851,659</b>	<b>\$ 551,825</b>	<b>\$ 299,799</b>	<b>\$ 75,088</b>	<b>73.61%</b>	
	Adopted Budget		Revised (2/09) Budget	YTD				
Beginning Fund Balance as of 7/1/08	\$ 25,656		\$ 25,656	\$ 25,656				
Less: Surplus/(Deficit)	-		-	33,229				
Projected Ending Fund Balance 6/30/09	\$ 25,656		\$ 25,656	\$ 58,885				

Note: includes April revenues and expenses except for contracted professional services



Napa County Regional Park  
and Open Space District

## STAFF REPORT

Date: May 11, 2009  
 Agenda Item: 4.d  
 Subject: Consideration of and potential adoption of District budget for FY 2009-10

### Recommendation

Adopt the draft budget as proposed.

### Background

The attached draft District budget for FY 2009-2010 is based on the following key assumptions:

### **General Assumptions**

- (1) Assumes the District will continue to contract for staffing services rather than develop its own personnel system.
- (2) Assumes County funding for operations and special projects is consistent with prior policy adopted by the Napa County Board of Supervisors, which allocates 60% of the Special Projects Fund for parks and open space.
- (3) Assumes the freeze on state grant funding is lifted.
- (4) Assumes all rental income from the Moore Creek property is used for improvements to that property.
- (5) Assumes a balanced budget.

### **Budget Notes**

- (1) Line Item 6. Grazing lease income for Moore Creek is not included. For FY 2008-9, approximately \$3,000 in grazing lease income is past due, and no grazing is assumed in FY 2009-10.
- (2) Line Items 9 and 10. Staffing for the District will remain stable in the coming year compared to the second half of FY 2008-9. This includes a full-time General Manager contracted from the County of Napa, two 50% of full-time contract employees (one for outreach and field work, and one for project management), and small portions of several other County staff to provide accounting, secretarial and legal services.
- (3) Line Item 12. Assumes Moore Creek property insurance costs \$5,000. However, property insurance for the two houses at Moore Creek may prove infeasible.
- (4) Line Item 17. Excluding Moore Creek, there is no “contingency” budgeted for FY 2009-10 other than \$10,000 that, if used, would need to come from District equity.



- (5) Line Item 20. Assumes half of the \$50,000 in funding from the County for the first year of the three-capital project grant is carried over into FY 2009-10, and that \$25,000 of the \$100,000 in funding from the County for the third year of the three-year capital project grant (which becomes available on 1/1/2010) will be expended in FY 2009-10. Depending on the pace at which the Bay Trail project proceeds, this may need to be revised through a future budget amendment process. Also assumes that none of the River Parkway Grant for Phase I of the Trail (American Canyon to Green Island Road) is expended in FY 2009-10. This assumption may need to be revisited once the timing for Phase I is resolved.
- (6) Line Item 21. Assumes the Oat Hill Mine Trail litigation is settled and the remaining erosion control and bank stabilization work is completed in FY 2009-10. Also assumes an additional \$500 of general operating revenues is budgeted for routine maintenance activities.
- (7) Line Item 22. Assumes the feasibility study for Camp Berryessa is completed in FY 2008-9. If not, then a portion of the \$50,000 budgetted for FY 2008-9 will roll over into FY 2009-10. Assumes none of the \$82,000 from the third year of the County capital grant that is available for Camp Berryessa will be expended in FY 2009-10, even though it becomes available January 1, 2010; this assumption may need to be revisited depending on how quickly a long-term agreement can be negotiated between the Bureau of Reclamation and the District.
- (8) Line Item 23. Assumes the District continues to maintain the Napa River Ecological Reserve, and further assumes that the \$100,000 restoration grant from the Coastal Conservancy is fully utilized in FY 2009-10.
- (9) Line Item 25. This line item is deleted in FY 2009-10, and replaced by a separate fund specifically dedicated to the Moore Creek property.

	A	B	C	D	E	F	G	H
1	Napa County Regional Park and Open Space District							
2	<b>Budget for 2008-9 and 2009-10</b>							
3	(draft of 5/11/09)							
4								
5	<b>Revenues</b>							
6			<b>2008-9</b>		<b>2009-10</b>			
7	<b>Description</b>		<b>Budgeted 2/09</b>	<b>Estimated 5/09</b>	<b>Moore Creek</b>	<b>General Fund</b>	<b>Total</b>	
8					Proposed 5/09	Proposed 5/09	Proposed 5/09	
9								
10	1	Operating Grant from Napa County	\$337,635	\$333,785		\$366,930	\$366,930	
11	2	Elections Cost Grant from Napa County	\$30,000	\$30,442			\$0	
12	3	Special Projects Grant from Napa County	\$141,192	\$76,768	\$250,000	\$117,124	\$367,124	
13	4	State Coastal Conservancy Grant	\$25,000	\$0		\$100,000	\$100,000	
14	5	Donations	\$0	\$0			\$0	
15	6	Program Income	\$52,832	\$34,520	\$8,000		\$8,000	
16	7	Special Projects Grant for Moore Creek	\$265,000	\$283,312			\$0	
17		Use of District Reserves				\$10,000	\$10,000	
18	8	<b>Total Revenue</b>	<b>\$851,659</b>	<b>\$758,827</b>	<b>\$258,000</b>	<b>\$594,054</b>	<b>\$852,054</b>	
19								
20	<b>Expenses</b>							
21	<b>Description</b>		<b>2008-9</b>		<b>2009-10</b>			
22			<b>Budget</b>	<b>Estimated</b>	<b>Moore Creek</b>	<b>General Fund</b>	<b>Total</b>	
23			09-Feb	09-May	Proposed 5/09	Proposed 5/09	Proposed 5/09	
24								
25	9	CONTRACT PROFESSIONAL SERVICES (COUNTY)	\$215,000	\$210,000		\$225,130	\$225,130	
26	10	CONTRACT PROFESSIONAL SERVICES (NON-COUNTY)	\$79,000	\$79,000		\$105,800	\$105,800	
27	11	LEGAL EXPENSE	\$10,000	\$11,000	\$1,000	\$8,000	\$9,000	
28	12	INSURANCE:LIABILITY	\$2,000	\$2,000	\$5,000	\$2,000	\$7,000	
29	13	MEMBERSHIPS	\$1,500	\$1,500		\$1,500	\$1,500	
30	14	OFFICE/FACILITY EXPENSE	\$1,500	\$1,000	\$500	\$1,500	\$2,000	
31	15	AUDIT	\$5,600	\$6,200		\$6,500	\$6,500	
32	16	ELECTION SERVICES	\$30,000	\$30,442		\$0	\$0	
33	17	CONTINGENCIES/ SPECIAL PROJECTS	\$8,000	\$8,000	\$251,000	\$10,000	\$261,000	
34	18	TRANSPORTATION & TRAV	\$1,000	\$1,000	\$500	\$1,000	\$1,500	
35	19	TRAINING	\$250	\$300		\$500	\$500	
36	20	Project: NAPA RIVER&BAY TRAIL	\$50,000	\$25,000		\$50,000	\$50,000	
37	21	Project: OAT HILL MINE TRAIL	\$41,192	\$1,768		\$39,924	\$39,924	
38	22	Project: CAMP BERRYESSA	\$50,000	\$50,000		\$27,700	\$27,700	
39	23	Project: NAPA R ECOLOGICAL RESERVE	\$38,750	\$13,750		\$114,000	\$114,000	
40	24	Project: BV	\$35	\$35		\$500	\$500	
41	25	Program: Moore Creek	\$52,832	\$52,832			\$0	
42	26	Land	\$265,000	\$265,000			\$0	
43	27	<b>Total Expenditures</b>	<b>\$851,659</b>	<b>\$758,827</b>	<b>\$258,000</b>	<b>\$594,054</b>	<b>\$852,054</b>	

**Cell:** D12

**Comment:** jwoodbur:  
assume \$25,000 for Bay Trail, and \$39,424 for OHMT, goes to 09-10

**Cell:** G12

**Comment:** jwoodbur:  
assume \$25,000 for Bay Trai, and \$39,424 for OHMT that comes from 08-09 and goes to 09-10; also \$27,700 for Camp Berryessa from year Two of SPF agreement, and \$25,000 for Bay Trail form Year Three of SPF agreement.

**Cell:** C15

**Comment:** jwoodbur:  
Rent \$4000  
plus option refund and excess Cnty grant for acquisition

**Cell:** D15

**Comment:** jwoodbur:  
\$18,312 moved to line 7



Napa County Regional Park  
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## STAFF REPORT

Date: May 11, 2009

Agenda Item: 4.e

Subject: Consideration of and potential approval of policies and procedures as guidelines for monitoring and enforcement of District-held conservation easements.

### Recommendation

- (1) Receive staff report on handouts, policies and procedures related to conservation easements.
- (2) Approve the monitoring protocol, monitoring form and violation policy as general guidelines for how the District will monitor and enforce the terms of conservation easements.

### Background

The four documents attached to this memorandum will be discussed at the Board meeting. The first is a handout targetted to landowners which describes conservation easements. This is included for information purposes only. The second lays out the District's protocol for monitoring conservation easements, while the third is the form that will be used to document the results of an annual monitoring visit. The last describes the steps the District will take in the event a violation of easement terms is discovered through the District's monitoring process.

Staff requests that the Board adopt the monitoring protocol, monitoring form and violation policy as general guidelines for how the District will monitor and enforce the terms of conservation easements. The Board is asked to adopt these as general guidelines rather than as fixed policy in recognition of the fact that each easement is likely to have unique circumstances that requires staff to be able to respond flexibly. At the same time, adoption of these guidelines will (a) help ensure the District carries out all of its legally-mandated responsibilities as an easement holder, (b) enable the District to respond more quickly should any problems be identified, and (c) strengthen the ability of the District to defend its actions should enforcement of an easement end up in court.



Napa County Regional Park  
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## BENEFITS OF CONSERVATION EASEMENTS

### **Preserving Your Quality of Life**

A conservation easement is an agreement between a landowner and the Napa County Regional Park and Open Space District whereby the landowner voluntarily decides they would like to limit future development on their land and protect its natural resources, and the Open Space District agrees to ensure that all current and future landowners abide by the terms of the conservation easement.

The landowner retains ownership of the land and may continue to use the land for agriculture, forestry, recreation, as well as limited residential uses if the parcel is large enough. The Open Space District holds title to the conservation easement and once a year visits the property to establish whether the terms of the agreement are being complied with. In most cases, the landowner's use and enjoyment of the property does not change after the conservation easement is put in place. The land may remain in the family, or be sold, or passed on to heirs, subject to the terms of the conservation easement. In essence, a conservation easement ensures that future owners of the land will preserve the natural resources according to the present owner's wishes. By preserving land in its predominantly natural state, a landowner who donates a conservation easement is helping to protect the wildlife habitat, water quality, and scenic beauty of Napa County which benefits all residents and visitors for generations to come.

As a general policy, the Open Space District is interested in holding conservation easements that also include some level of public non-motorized recreational trail access. By comparison, the Land Trust of Napa County is focused on conservation easements where no public access is proposed.

### **Income Tax Benefits**

A landowner who donates a conservation easement may enjoy significant federal tax benefits because future development rights such as commercial wineries, subdivision for multiple house sites, and industrial uses are extinguished. The value of a conservation easement is the value of the development rights the landowner chooses to give up. A landowner who donates a conservation easement to the Open Space District has made a charitable contribution which counts as a deduction from a landowner's taxable income.

Under current federal tax law, a landowner may deduct up to 50% of their adjusted gross income. A farmer or rancher may deduct 100% of their adjusted gross income if more than 50% of their gross income comes from the business of farming or ranching. The amount of the deduction not used in one year may be carried forward for up to 15 years.

These increased tax incentives, which were designed to encourage people to donate conservation easements and protect their land as open space, are relatively new. They are referred to as "increased" tax incentives because prior to their enactment, a landowner was allowed to deduct 30% of their adjusted gross income and carry the deduction forward for five years.

It is important to note that these increased tax incentives expire on December 31, 2009. Many members of Congress are working to extend these tax benefits for land conservation, however, their future availability is unclear. If the increased tax incentives are allowed to expire, most likely the law will revert to a deduction level of 30% of a landowner's adjusted gross income carried forward for five years.

**Example:** Assume a property in Napa Valley with one house on it, but enough acreage to build another house and a winery, is worth \$3 million. To preserve a majority of the land in its natural state, let's say the landowner decides to donate a conservation easement to the Open Space District. The conservation easement prohibits future subdivision, development, and additional roads while allowing for the landowner to maintain their residence and guest house and continue to farm the small vineyard they have on the property. The landowner also allows the Open Space District to construct a narrow trail corridor along the edge of their property which will eventually connect to a regional public hiking trail.

After placing the conservation easement on the property, the property is appraised at \$1 million due to the fact that no future houses, wineries, or industrial uses will be allowed on the property. Therefore, the value of the conservation easement is \$2 million (\$3 million before value - \$1 million after value), which means the value of this landowner's charitable contribution is \$3 million. Let's say that this landowner's adjusted gross income is \$150,000. He or she may deduct \$75,000 (50% of their adjusted gross income) from their taxable income. The landowner will pay taxes on \$75,000 rather than \$150,000. The landowner may continue to take the same tax deduction for an additional 15 years or until their charitable contribution of \$2 million is used up.

### **Estate Tax Benefits**

When a landowner donates a conservation easement to the Open Space District, he or she is reducing the value of their property on the open market because future development rights are extinguished. Often a person's property is one of their most valuable assets. By reducing the value of your property, you significantly reduce the value of your estate for estate tax purposes. This means that your heirs will pay less in estate taxes after you die. In addition, if your land has a conservation easement on it, after you die your executor may exclude 40% of the value of your restricted property up to \$500,000 from your gross estate. In other words, when you donate a conservation easement, you receive an income tax deduction now, the value of your estate is lowered so your heirs pay less in estate taxes, and your executor may reduce the value of your estate by an additional amount equal to 40% of the value of your land with a conservation easement up to \$500,000.

### **What Costs Are Involved?**

The staff at the Open Space District will work with you to prepare a conservation easement that protects the most important natural resources on your land while reserving for you the right to use and enjoy your land as you have in the past. Each conservation easement is tailored to meet the needs of the particular landowner. You do not pay for staff's time to prepare and record your conservation easement. While the Open Space District is your partner in protecting your land, we advise you to seek your own legal and tax advice if you so choose as placing a conservation easement on your property is a permanent decision. If you are interested in an income tax deduction, you must hire an appraiser because the IRS requires that you have the value of your conservation easement professionally appraised. The Open Space District can provide you with a list of qualified appraisers who work in the area. Finally, the IRS requires that in order for the Open Space District to qualify as a holder of conservation easements, it must have the commitment and resources to steward and enforce the terms of the restriction in perpetuity. To meet this obligation, the Open Space District asks for a charitable donation to its conservation easement monitoring and enforcement endowment.

**How Do I Proceed?** For more information about conservation easements and the Open Space District, please contact John Woodbury, General Manager, at 707/259-5933 or Elizabeth Wroblicka, Project Manager, at 707/299-1335. We will work with you to help you protect your land forever.

## NAPA COUNTY REGIONAL PARK AND OPEN SPACE DISTRICT

### Conservation Easement Monitoring Protocol

**A. Components of Monitoring Binder:** Each conservation easement that the District holds shall have a binder containing the following information which shall be used in monitoring each property. The monitoring binder is the project file for each conservation easement. It contains all the relevant information anyone would need to interpret, monitor, and enforce a conservation easement. The monitoring binder should contain only copies. Originals of deeds, conservation easements, baseline documentation reports, monitoring reports, correspondence, photographs, maps, and any other document that may be needed as evidence to establish the condition of the property and uses shall be stored in an off-site, fire proof storage area.

1) **Topographic and Aerial Maps:** Topographic maps and aerial digital ortho-quad maps with easement boundaries for each conservation easement. Each conservation easement shall also have a map with identified features and photo-points for use during the monitoring visit.

2) **Monitoring Instructions:** Instructions provide guidance, reduce confusion and save time in the field. They also eliminate monitor discretion and increase quality-control. This is as important for volunteers as it is for future staff monitors.

Easement-specific monitoring instructions for each conservation easement will be provided in each monitoring binder. These instructions should include:

- a) Directions to the easement area, such as mileage and local landmarks.
- b) Landowner contact information.
- c) A summary of relevant information related to monitoring of the conservation easement, including any known hazards and an estimate of time required.
- d) A list of items to be reviewed (e.g. photo-points) or areas of specific concentration based on checklist of reserved rights and prohibited uses.
- e) The expected route of travel in narrative and/or outlined on a copy of the base map. The monitoring route will usually be designed to cover the maximum easement area. The monitoring route should include well-defined landmark or structures, inspecting the easement perimeter, and traveling along the established photo-points.

3) **Conservation Easement and Baseline Documentation Report:** The conservation easement and baseline documentation report shall be included in the monitoring binder so the monitor may review the reserved rights and prohibited uses, as well as any current allowable uses documented at the time of the conveyance. It is generally not advisable to refer to these documents while in the field because a monitor risks getting into a debate over interpretation of certain provisions with the landowner. Rather a monitor should be familiar with these documents and make a list of what to look for when in the field. When in the field, the monitor should simply objectively make note of activities and uses happening on the parcel.

4) **Correspondence:** Any correspondence between the District and the landowner or third party that relates to the conservation easement, reserved rights, prohibited uses, or current activities should be in the monitoring binder. Such correspondence will aid a monitor in understanding present conditions.

5) **Landowner Contact Log:** For verbal communications, a simple log containing the date, name of person contacted, contact information (phone number), and subject matter discussed kept at the front of the binder provides a quick reference for anyone trying to determine the status of communication with the landowner.

6) **Staff Notes:** District staff should note any ongoing monitoring issues, how issues were resolved, outstanding questions, or anything else that will help next year's monitor understand the current condition of the conservation easement property and relations with the landowner.

**B. Lead Monitor Project Review:** The Lead Monitor is responsible for reviewing the monitoring instructions and relevant background materials provided in the binder prior to conducting the monitoring visit.

**C. Landowner Contact and Scheduling:** At a minimum, an annual inspection visit will be made to each conservation easement and fee-owned property. The monitoring year runs from July 1 to June 30 to reduce conflicts with end-of-year project completion, agricultural harvest and poor weather.

1) **Ownership Change:** When a property changes ownership, District staff will set up a meeting with the new landowner as soon as possible to review the conservation easement and provide copies of all relevant documents related to the easement. The lead volunteer monitor may accompany staff as appropriate on this visit.

2) **Coordination & Scheduling:** District staff will coordinate the scheduling and assignment of a Lead Monitor (volunteer or staff) for all conservation easement properties within the first quarter of the monitoring year.



- a) The Lead Monitor is responsible for the coordination, logistics and recruitment of at least one other volunteer to assist in the monitoring when possible.
  - b) The Lead Monitor will telephone the owner approximately one month in advance of the desired date to establish a monitoring date. The landowner is encouraged to participate in the visit and monitors should make reasonable effort to conduct the visit with the landowner or his/her representative. Owners of easements involving vineyards are very busy in summer and fall. Monitoring should be coordinated to avoid the hot summer.
    - i. Inquire if the monitor should be aware of any changes to the easement property since the last monitoring visit.
    - ii. The Lead Monitor will document the contact with the landowner in the landowner contact log.
    - iii. If the Lead Monitor is unsuccessful in contacting the landowner, contact District staff.
- 3) **Confirmation:** Keeping written records of landowner contacts helps build a record of responsible stewardship, maintains institutional memory and establishes a regular course of business practice. If necessary, a follow-up confirmation letter may be sent to the owner. The Lead monitor will confirm the appointment with the landowner approximately one week in advance.
- a) Copies of pertinent written correspondence will be placed in the monitoring binder.
  - b) Verbal communications will be documented in the contact log located in the beginning of the monitoring binder.

## D) Monitoring Activities

- 1) **Monitors:** The role of the monitor is to act as the eyes and ears of the District documenting changes that have occurred since the last monitoring visit. Annual monitoring reports and good record keeping contribute to the base of information that forms the foundation of the District's stewardship program. Monitors should be respectful of a landowner's privacy and ownership goals.
- 2) **Staff Notes:** Prior to visiting the property, monitors should review the Staff Notes page in the monitoring binder. District staff will note any action, outcome or resolution to previous years' activities or issues; monitors should contact staff if they have any questions about on-going issues on which to follow up.

3) **Owner Contact:** Upon arriving at the property, make appropriate contact with the land owner or their representative. If the landowner is present, but will not accompany the monitors, inform them of the anticipated route of travel and expected length of the visit. If not done earlier, ask the owner if there have been any changes since the prior years monitoring visit.

- a) Note relevant comments from the landowner on the monitoring report (e.g. change in property ownership, contact info, management, anticipated use of reserved rights, requests for info). Document these for follow-up by District staff; monitors are the “eyes and ears” of the District, not the “mouth.”

4) **Inspection Route:** Inspect the property following the recommended route of travel. If conditions warrant, vary the route, but note the changes on the map and in the field notes or inspection form. Do not enter buildings unless there is a need to do so and permission from the owner is obtained.

5) **Photo-points:** Photos build an objective record of the property by documenting observations. They establish that a site has been visited and they can be analyzed at a later time. At each photo-point, compare current conditions with those in the baseline and previous years’ monitoring photos and note conditions in the field notebook or inspection form.

- a) It is as important to note “no change” as it is to note the changes that have occurred. This serves to document that the property was monitored.
- b) Re-shoot photo-points when changes have occurred and when a retained right is exercised. Notify District staff following visit.
- c) Every five years regardless of extent of property alteration or natural changes, District staff will re-shoot existing baseline photo-points. Staff will also establish new or additional photo-points when conditions have sufficiently changed such that the original photos/photo-points no longer adequately document the property, or when previously undocumented structures/activities are noted.
- d) Clearly describe the location, subject and perspective (compass direction and photo subject) of each photograph so it may be reproduced in subsequent inspections (e.g. “View of new home looking SSW 220° true north from photo-point #4”). If needed, include an item for scale. Assign each photo a number and record this information on a photo index log form provided in the monitoring binder.

- e) Mark new photo-points on the map and use an arrow to indicate the photo's perspective.
- f) When processing photos from print or digital media, the photos should be labeled using permanent ink directly on the back of the photo with the date, easement name, photographer's signature, photo-point number, and negative number or digital file number. Develop photos as 3"x5" to maximize storage.

GPS may be used to locate photo-points, by skilled personnel using instruments with a high degree of accuracy. Make sure map datums are recorded. Always use traditional field methods as backups (i.e. pace distances between landmarks) because GPS is not 100% reliable.

6) **Potential Violations:** If an activity is noted that may be a violation and there is not a conflict with the presence of the landowner, perform the following:

- a) Photograph the activity.
- b) Write your observations in your field notebook or inspection form immediately. Be as descriptive and objective as possible. Include time activities were observed, descriptions of person or persons conducting the activity, type and model of equipment being used if potential violation involves the use of tools and equipment. **BE OBJECTIVE. Do not describe the activity as a violation – conclusions will be drawn later following a review of the easement file.**
- c) If the landowner is present, and circumstances do not allow you to photograph and document the activity without comment, make mental notes and write up the details as soon as possible.
- d) Communicate the activity immediately to District staff.

#### E) Post-monitoring Activities

**1. Reporting:** Within two weeks after the inspection, monitors are responsible for completing the monitoring report and returning the monitoring report, photos, negatives and monitoring binder to the monitoring coordinator.

No conclusions should be made in the report. The report is for the presentation of objective data only.

- a) **Completing the Report:** The Lead Monitor is responsible for completing and signing the monitoring report. Some lead monitors circulate the report to the other monitors assisting on the visit for their input. **Sign and date all maps and documents submitted with the monitoring report.**

- i) Transcribe the field notes using the active voice and qualifying language to complete the monitoring form.
- ii) Blank monitoring forms are provided in the monitoring binder. An electronic version is also available.
- iii) Include a map showing the route of travel (with ARROWS) and photo-points visited, signed and dated. It is ideal to complete this map, immediately after completing the monitoring visit with the input of the other monitors and prior to leaving the property.
- iv) Label the backs of the photographs with indelible pen: do **not** use labels as they will fall off. Include: conservation easement name, photo-point number, photographer's name and signature, date, and photo negative or digital file number. Use the photo index log to accompany negatives which will be archived; be sure to provide information on the type of camera used.
- v) Use page three of the monitoring report to document changes or activities that are of concern or of more subjective nature.
- vi) Sign and date the report.
- vii) Completed reports and monitoring binders are returned to the District offices within two weeks.

## F. Report Review

1) **District Staff Review:** Since no conclusions are drawn in the monitoring report, it is incumbent upon District staff to inspect the data and determine that potential violations have or have not occurred, and if so, what actions need to be taken. Acknowledging the report by co-signing and dating the report verifies that all of the monitoring activities were conducted and that the report is accurate and complete.

- a) New photographs are compared to the baseline report.
- b) Reserved rights, prohibited uses and the conservation easement purpose are reviewed to determine the compliance of the property based on the monitoring report
- c) A follow-up course of action for issues or violations is noted on page 3 of the monitoring report.
- d) Each report is classified as one of three status options: "in compliance" for easements without any identifying follow-up issues; "in review" for easement properties with issues or concerns needing follow-

up from District staff; or “in violation” for easements with outright violations as determined by staff.

2) **Landowner Correspondence:** Within 30 days of the monitoring visit, District staff sends a copy of the monitoring report to the landowner.

a) Follow-up memos and page 3 of the monitoring report are used for internal review and are not sent to the landowner.

b) Reports are sent via certified mail to landowners when documentation of correspondence is needed.

c) Easements determined to be “in violation” shall receive correspondence relating directly to the violation, easement provisions, photographs, and steps for immediate action. A copy of the monitoring report will not be sent.

3) **Monitor Binder Update:** Easement-specific monitoring instructions, forms and maps are updated as needed by District staff.

#### **G. Records Management & Archival Process**

- 1) **Original Documents:** District staff is responsible for ensuring that original documents are archived in a manner that minimizes the potential for damage, while ensuring copies of the report are provided to the landowners and are available for reference in the easement monitoring binder. Original documents do not leave the control of District staff.
- 2) **Copies:** Copies of monitoring reports, correspondence and relevant memos are copied for the monitoring binders. Color copies of relevant photos are made for the monitoring binders.
- 3) **Storage:** Original monitoring reports and new photos are stored in monitoring folders in the off-site fireproof monitoring file cabinets. The fireproof file cabinet is used for archival purposes.
- 4) **Baseline Photographs:** Baseline photographs may be taken with digital cameras so long as they are stored on the County server which is regularly backed up, copied onto a CD and re-copied every five years onto whatever the current technology call for, and printed out in hard copy with the baseline documentation report.
- 5) **Monitoring Photographs:** Monitoring photographs shall be taken every five years and stored in the same manner as baseline photographs. If on a regular monitoring visit there is a need to take photographs because something has changed and needs to be documented, the digital photographs shall be saved on the County server and printed out in hard copy for the monitoring binder.



Napa County Regional Park  
and Open Space District

Easement Name:

Date of Inspection:

Current Landowner:

Local Contact for Landowner:

Address and Phone:

1. Did the owner or representative accompany you on the inspection? Yes No

If yes, list name(s):

2. Describe route of travel (please include a map showing the route traveled this year. Note that unless you are certain of your ability to view the entire property from your route, the route should be varied from year-to-year to ensure that the entire property is monitored.)

3. Describe the current land uses:

4. Describe any reserved rights that have been exercised (see reserved rights section from conservation easement):

5. Describe any other human alterations since the easement was last monitored or that are previously unrecorded (for example: construction or improvements to buildings and roads, fences, tree cutting or clearing, trash or hazardous materials, evidence of trespassing, alteration of waterways, etc.). Please describe activity or alteration: note location, extent, purpose (if known), persons responsible (if known). Attach maps, photos (signed, dated, labeled) and illustrations. Please describe any applicable activity as accurately and objectively as possible.

(continue on next page if necessary)

6. Describe any natural alterations since the easement was last monitored (for example, fire, flooding, landslides, insect infestation). Attach maps, photos (please sign, date and labeled), and illustrations as necessary.

7. Have there been – or are there any plans for – changes in the ownership, management, or status of the property? Neighboring properties? Does landowner have new contact information?

8. Record any questions or concerns of the landowner.

Monitoring Team:

Lead Monitor:

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Please indicate the number of the following attached to this report. Please sign, date, and label all:

# Photographs:

# Maps:

# Illustrations:

Other (describe):

Please use this page to describe any issues or any other concerns with this property that the District should know about. Please also use this page to record concerns regarding neighboring parcels. This page is for internal use only and will not be sent to the landowner.

1. To the best of your knowledge and observation, are restrictions in the conservation easement being complied with? If no, please describe.

2. Are there any concerns you have regarding neighboring parcels (for example, trespassing, trash, boundary problems)?

3. Are there any concerns that you have regarding borderline issues or observations that may or may not be violations that you would like District staff to address?

4. Other concerns or questions:

Lead Monitor:

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

\_\_\_\_\_ In Compliance

\_\_\_\_\_ In Review

\_\_\_\_\_ In Violation



## ***Napa County Regional Park and Open Space District***

### ***Conservation Easement Violation Policy***

**Purpose:** The Napa County Regional Park and Open Space District (“District”) is responsible for enforcing all conservation easements by identifying violations and making sure they are rectified. Regular communication with landowners and property site visits result in better overall landowner relations and in violations being discovered and dealt with in an expeditious manner.

#### **Enforcement is Required to:**

1. Engender public confidence in District and its easement program;
2. Maintain District’s legal authority to enforce easements;
3. Maintain District’s ability to accept tax-deductible easement gifts;<sup>1</sup>
4. Discharge District’s obligations under the conservation easement.

#### **Guidelines for Enforcement:**

1. Document every step in the violation assessment and resolution process, including all communications with the violator.
2. Evaluate violations in the context of the following factors: 1) What is the harm to the conservation purpose(s) and conservation values of the conservation easement; 2) What is District’s legal obligation and ethical obligation; 3) Where does the violation fall in terms of furthering District’s overall mission and protecting all of District’s properties.
3. Maintain the most constructive working relationship possible with the landowner.
4. Maintain consistent responses to similar violations yet be as flexible as the situation warrants.
5. Generally only use litigation as a last resort and when there is a good chance of success. Under most circumstances, attempt to reach an amicable agreement with the violator while striving for the best possible negotiated outcome.

#### **Steps to Take in the Event of a Suspected Violation**

##### **a. Site Visit:**

Even if this is not a regular monitoring visit (*e.g.*, it is in response to notice of a potential violation or otherwise), all applicable annual monitoring procedures should be followed.

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<sup>1</sup> Federal regulations specify that the eligibility of an organization to accept tax-deductible easement gifts is based in part on that organization having a commitment to protect the conservation purposes of the donation and having the resources to enforce the restrictions.

If a District staff person or volunteer is on site with the landowners, ask questions for further clarification of the activity or physical modification. Do not state definitively whether there has been a violation. Use polite deferment techniques. Thank the landowners for their time and tell them that you will follow up with them and send them a copy of the monitoring report.

If a District staff person or volunteer is not accompanied by the landowner, simply complete the monitoring with good documentation and report the suspected violation to staff.

**b. Office Follow-up:**

District staff shall review the Monitoring Report and purpose of the CE.

District staff shall carefully review the entire CE, visit the site if necessary, and make an initial assessment of whether a violation has occurred.

If it is determined that there is no violation, the process ends after all documentation is completed.

**c. Assess the Violation:**

For urgent matters: When an urgent situation exists, District staff must have the discretion to respond as needed, with input sought from the General Manager and Board members as warranted under the situation. In rare circumstances, it may be necessary to involve the local police and seek a temporary restraining order. As soon as possible, District staff should notify the Board Chair or Vice Chair.

For non-urgent matters:

- 1) As soon as District staff learns of a potential violation, District staff shall evaluate whether the infraction is minor or major. Whether the violation was a one-time occurrence or is ongoing may factor into this evaluation.
- 2) If the violation is either deemed minor but potentially volatile or major, District staff shall immediately bring the situation to the attention of the General Manager. District staff and the General Manager shall then discuss and make a recommendation to the Board for approval in advance of taking further steps towards enforcement.
- 3) If the violation is deemed minor, District staff shall report on the situation with the General Manager and discuss an appropriate response.

**d. Respond to a Violation:**

- 1) Create a thorough and accurate written record of the violation. The violation should be documented quantitatively and descriptively. The record should include photos signed by the photographer and

keyed to photo points on map, or videotape with verbal commentary. The violation record should provide a measurement of harm to the conservation values. The violation record includes extensive field notes that are dated and explicit comparison to the baseline report.

- 2) General Manager should contact the landowner and set up a meeting to discuss the violation in an amicable manner and attempt to reach a mutually agreeable resolution. A written record of all meetings, correspondence, and other forms of communication is essential.
- 3) If District staff and landowner agree upon the nature of the violation, remedial alternatives shall be discussed. A final resolution may require further visits, research, consultations and meetings.

If an agreement is reached, document the agreed-upon remediation and include a timetable for the proposed action. Where appropriate, include a memorandum of understanding setting forth the agreement and including signature lines for District, landowner and any third party violator.

- 4) If amicable discussions with the landowner are inappropriate or ultimately unsuccessful, possible next steps include, but are not limited to: sending a certified letter outlining violation and remediation requested, involving legal counsel, and/or mediation.

## **Classifying a Violation as Major or Minor**

### **Major Violations**

*Activities/Uses having, or expected to have, a substantial negative impact on the Conservation Values protected by the easement*

**Response.** The response to a Major Violation should be orchestrated by the General Manager in accordance with the procedure established by District's Violation Policy. The following is a list of the most typical Major Violations encountered, examples of such violations, and some suggested corrective actions for remedying such violations.

Types	Examples	Corrective Action
Construction of Substantial Prohibited Structures	<ul style="list-style-type: none"> <li>• Construction of Residence</li> <li>• Construction of Pond</li> <li>• Construction of Winery or accessory structures</li> <li>• Construction of other Agricultural, Recreational, or Accessory Structures not permitted by easement other than temporary, mobile, or turnout shed structures.</li> </ul>	<ul style="list-style-type: none"> <li>• Removal of Improvement</li> </ul>
Construction of Substantial Structures in Prohibited Areas	<ul style="list-style-type: none"> <li>• Construction of a Residence outside of an approved area</li> <li>• Construction of any of the other structures listed immediately above in an area specifically protected from such construction by the easement (such as wetlands, streams, scenic hilltops, sensitive geology)</li> </ul>	<ul style="list-style-type: none"> <li>• Removal of Improvement</li> <li>• Landscaping / Screening</li> <li>• Restoration / Planting</li> <li>• Compensation of Value (Timber)</li> </ul>
Prohibited Destruction of Natural Features Protected by the Easement	<ul style="list-style-type: none"> <li>• Timbering</li> <li>• Destruction of Wetlands</li> <li>• Destruction of Stream</li> </ul>	<ul style="list-style-type: none"> <li>• Restoration</li> <li>• Compensation of Value</li> </ul>
Major Dumping / Depositing of Waste	<ul style="list-style-type: none"> <li>• Use of the property for permanent disposal of substantial amounts of non-biodegradable waste</li> </ul>	<ul style="list-style-type: none"> <li>• Removal of Waste</li> <li>• Posting of site for cessation of further use</li> </ul>
Destruction of Historic Integrity Of Protected Façade	<ul style="list-style-type: none"> <li>• Destruction (full or partial) of Historic Façade by active or passive means</li> <li>• Prohibited Addition to Historic Façade</li> </ul>	<ul style="list-style-type: none"> <li>• Restoration / Addition Removal</li> <li>• Compensation of Value</li> </ul>
Prohibited Subdivision	<ul style="list-style-type: none"> <li>• Completion of a Subdivision or Parcel Creation Not Permitted by the Easement</li> </ul>	<ul style="list-style-type: none"> <li>• Merging or Mandatory Joint Ownership</li> </ul>

Resolution Procedure. Resolution of a Major Violation should be achieved through strict adherence to the Violation Policy, using the information presented in the above table for guidance.

## **Minor Violations**

*Activities/Uses that violate the terms/conditions of the easement, but which will not have, or are not expected to have, a substantial negative impact on the Conservation Values protected by the easement*

**Response.** The response to a Minor Violation should come from District staff and should be in accordance with District's Violation Policy, which allows for some flexibility in determining certain aspects of response to such violations based on the severity of the violation and the accessibility and cooperation of the landowner. The following is a list of the most typical Minor Violations encountered, some examples of such violations, and some suggested corrective actions for remedying such violations

Types	Examples	Corrective Action
Construction of Insignificant Structures	<ul style="list-style-type: none"> <li>Construction of temporary, mobile, or turnout shed structures not permitted by the easement.</li> </ul>	<ul style="list-style-type: none"> <li>Removal of Structure</li> </ul>
Construction of Permitted Structures Without Prior Approval	<ul style="list-style-type: none"> <li>Construction of structure(s) which meeting all requirements of the easement, with exception of prior review/approval</li> </ul>	<ul style="list-style-type: none"> <li>Submission of Plans/Completion of Approval Process</li> <li>Landscaping / Screening</li> </ul>
Permitted Disturbance of Natural Areas Without Prior Approval	<ul style="list-style-type: none"> <li>Disturbance to natural areas such as streams, wetlands, woodlands, that are permitted to occur, but only with prior approval.</li> </ul>	<ul style="list-style-type: none"> <li>Submission of Plans/Completion of Approval Process</li> <li>Implementation of protective measures</li> </ul>
Minor Unpermitted Disturbance to Natural Areas	<ul style="list-style-type: none"> <li>Incidental cutting of one or a few trees</li> <li>Incidental wetland/stream disturbance</li> <li>Unpermitted grazing/mowing</li> </ul>	<ul style="list-style-type: none"> <li>Planting or Restoration Plan</li> <li>Fencing</li> </ul>
Minor Dumping	<ul style="list-style-type: none"> <li>Small amounts of trash, debris, or discarded items/materials dumped in non-sensitive areas</li> </ul>	<ul style="list-style-type: none"> <li>Cease using</li> <li>Remove non-biodegradables</li> </ul>
Inappropriate Stockpiling or Composting	<ul style="list-style-type: none"> <li>Composting or Stockpiles located in sensitive natural areas</li> <li>Excessive Stockpiling or Composting</li> </ul>	<ul style="list-style-type: none"> <li>Move to acceptable area</li> <li>Find alternative management for (recycle)</li> </ul>

Permitted Activity in Violation of Setbacks	<ul style="list-style-type: none"> <li>• Plowing within setbacks to streams, wetlands, woodlands</li> <li>• Composting within setbacks to streams, wetlands</li> </ul>	<ul style="list-style-type: none"> <li>• Cease activity or move activity to acceptable area</li> </ul>
Failure to use Best Management Practices / Control Erosion	<ul style="list-style-type: none"> <li>• Excessive trail, stream crossing, or field/pasture erosion</li> <li>• Overgrazing</li> </ul>	<ul style="list-style-type: none"> <li>• Stabilization (rip/rap, waterbars, contour strips, grading)</li> <li>• Control/Eliminate Access/Use</li> </ul>
Minor Façade Violation	<ul style="list-style-type: none"> <li>• Permitted alteration w/out approval</li> <li>• Failure to maintain</li> </ul>	<ul style="list-style-type: none"> <li>• Plan Submission/Completion of Approval Process</li> <li>• Repair/Maintain</li> </ul>
Transfer w/out Notice	⇒ ⇒ ⇒ ⇒ ⇒ ⇒ ⇒ ⇒	<ul style="list-style-type: none"> <li>• New Owner Info</li> </ul>
Permitted Subdivision W/out Approval	⇒ ⇒ ⇒ ⇒ ⇒ ⇒ ⇒ ⇒	<ul style="list-style-type: none"> <li>• Submission of Plans/Completion of Approval Process</li> <li>• Allocation of rights</li> </ul>



Napa County Regional Park  
and Open Space District

## STAFF REPORT

Date: May 11, 2009  
 Agenda Item: 4.f.  
 Subject: Receipt of report on expenditures, encumbrances, donations and grants approved by the General Manager

### Recommendation

Receive the report.

### Background

Section III.A (7) authorizes the General Manager to bind the district for supplies, materials, labor and other valuable consideration, in accordance with board policy and the adopted District budget, up to \$10,000 for non-construction purposes and up to \$25,000 for construction purposes, provided that all such expenditures are subsequently reported to the Board of Directors. Section III.A(8) of the By-Laws authorizes the General Manager to apply for grants and receive donations, subject to reporting such actions to the Board of Directors.

Pursuant to this authorization, the following information is provided to the Board.

Date	Purpose	Recipient	Amount
4/16/2009	Moore Creek Expenses reimbursement	CJ Yip and Associates	\$153.22
3/18/2009	Moore Creek Expenses reimbursement	CJ Yip and Associates	\$1,289.49
4/27/2009	Supplies—Master Plan printing	Copy Corner	\$22.84
3/10/2009	Moore Creek Expenses reimbursement	John Woodbury	\$46.72
4/16/2009	Other—District Anniversary	Napa River Inn	\$155.93
4/27/2009	Other—Web Site Maintenance	John Woodbury	\$38.00
4/16/2009	Napa River Ecological Reserve Expenses reimbursement	CJ Yip and Associates	\$23.50
4/27/2009	Watershed Symposium	Resource Conservation Dist	\$25.00

In addition to the above actions, the District on May 1, 2009 requested that Congressman Thompson include grant authorization of \$1,000,000 in the next federal surface transportation program legislation.

## Plan of Projects

Status Report for May 11, 2009

<u>Name of Project</u>	<u>Description</u>	<u>Status</u>
Bay/River Trail -- American Canyon to Napa	An 8+ mile recreational trail between the cities of American Canyon and Napa generally following the Napa River and interior levees of associated wetlands.	Feasibility study completed. Environmental review has been completed, and a Use Permit obtained, for the first phase of the project (American Canyon to Green Island Road. The District has been awarded a \$1,032,300 grant from the California River Parkway Grant Program; this grant was frozen in December 2008 pending resolution of the State budget crisis, and unfrozen in April 2009. The City of American Canyon, the Waste Management Authority and the District are close to agreement on terms for a spur trail around the closed American Canyon landfill. The County Board of Supervisors has approved \$50,000 for planning for the next phase of the trail. The District has prepared a draft MOU with DFG for the phase one trail, which is now under review by DFG. BCDC has been asked by the Bay Trail Project, the Coastal Conservancy and others to require DFG to enforce its condition that the Bay Trail be constructed on the pond 10 levee. <u>The District has obtained a proposal from Questa Engineering to prepare materials and apply to the PUC for permission to have the trail cross the SMART railroad tracks.</u>
Berryessa Estates	Acquire 160 acres next to Berryessa Estates from BLM at no fee through their Recreation and Public Purpose Act procedure. Would serve as a wilderness park for local residents eventually be the northern trailhead for a trail between Berryess Estates and Pope Canyon.	CDF and the Pope Valley Volunteer Fire Department have added a proposal to construct a fire substation on a corner of the property. CDF has indicated its crews will most likely be available to clear brush for a combined firebreak and trail. A community meeting with about two dozen attendees was held March 10, 2009 at the Pope Valley Farm Center to get input from and determine level of support in the community. The draft R&PP application to BLM has been submitted. The District has completed the donation to the District of a small, 0.2 acre property that provides critical access to the northeast corner of the property.
Berryessa Vista	Planning and stewardship of this 224 acre wilderness park.	Volunteers working with the District have completed detail GIS mapping showing all existing roads, creek crossings, vista points and potential campsites. Continuing damage by off-road vehicles trespassing on the property was noted. A letter introducing the District and the park adjacent and nearby landowners is in preparation, and planning for signage and gate(s) is underway.
Blue Ridge/Berryess Peak Trail	Obtain right of way and construct trail to provide public access to extensive federal lands on Blue Ridge and to Berryessa Peak	Obtained donated trail easement from the Ahmann family to close gaps between existing public lands on Blue Ridge. Undertook a reconnaissance of the trail route in December 2008. Based on this reconnaissance, a revised easement description has been drafted, approved by the landowner and recorded. <u>Botanical surveys needed for CEQA review are currently underway.</u>
Camp Berryessa	Redevelopment of former Boy Scout Camp into a group/environmental education camp.	MOU with Bureau of Reclamation has been approved by BOR and by the District granting District an 18 month period to develop a plan for the camp. <u>Due to delays caused by BOR's need to conduct a cultural survey for the site, BOR is now preparing an extension of the MOU (which otherwise expires in June 2009). Questa Engineering has begun the market analysis and prepared . BOR has completed its cultural survey, and Questa is scheduled to perform soil testing in mid-May 2009.</u> The BOR has plans to temporarily operate primitive camping at the site this summer due to the temporary closure of up to four of the other resorts at the lake.
District Non-profit Foundation	Organize a non-profit foundation to raise funds for District projects	<u>The District Board has approved the goals, objectives and basic structure for a non-profit foundation to assist the District with fundraising. Staff is now working with the Board to contact potential future members of the foundation governing board.</u>



<p>Lake Hennessey North Shore Trails Would open up several miles of existing dirt access road, and construct approximately 1 mile of new single track trail, into a loop trail system on the north side of Lake Hennessey, and connecting to the planned Moore Creek Open Space Park trail system.</p>	<p>This project is being combined with the Milliken Ridge Trail project for purposes of seeking City of Napa approvals to construct and operate trails on their property. A presentation to the Napa City Council is tentatively scheduled for <u>June 2009</u>.</p>
<p>Milliken Reservoir Trails and Picnic Area Would construct approximately 3 miles of Bay Area Ridge Trail plus additional feeder and loop trails, along with a staging and picnic area</p>	<p>The feasibility study has been completed, and accepted by the Board of Directors. After review by City of Napa staff, the proposal has been modified, and a presentation on the modified plan is tentatively scheduled for City Council review in <u>June</u>. Staff met with property owners to the north of the Milliken property to discuss potential extensions of the trail to the north and northwest.</p>
<p>Moore Creek Open Space Park Development Development of open space park on 673 acres acquired by the District adjacent to City of Napa watershed lands at Lake Hennessey to protect habitat, provide recreational trails, and overnight camping facilities.</p>	<p>Escrow closed on December 24, 2008. An initial planning charette with community experts was held February 28 and 41 people attended. Improvements to the rental house and main ranch house on the property are in process. A joint VO-CAL volunteer weekend is scheduled for May 15-17 to reroute a section of the existing road/trail to remove it from the streambed. VO-CAL held a two day crew leader training session at the ranch house in March with about 20 volunteers. The County Road Crew has provided some excess gravelly soil to fill a low spots in the existing access road, and will do more in the future.</p>
<p>Napa River Ecological Reserve Restoration Remove invasive plants and restore native vegetation in the entryway meadow, replace damaged signage and information panels, restorate the interior trail and interpretive elements, and if feasible install a seasonal bridge.</p>	<p>The State Coastal Conservancy has approved a \$100,000 grant for habitat restoration, environmental education and improved signage; this grant was frozen in December 2008 pending resolution of the State budget crisis, <u>and funds were unfrozen in late April 2009</u>. A Notice of Exemption under CEQA has been filed on this project. The grant contract has been signed and the District's partners on the project have met to review approaches and roles. DFG has signed a landowner agreement to allow the work to proceed. The District is continuing to work with the Resource Conservation District on grant contract documents. One of the District's proposed partners, Acorn Soupe, closed its doors due to financial difficulties; the RCD will assume the student environmental education responsibilities which Acorn Soupe had been slated to provide. The District has assumed the County's role in managing the preserve under the joint management agreement with DFG. The deteriorated information kiosk, which had become a serious eyesore, was removed in November 2008.</p>
<p>Newell Preserve Improvements Provide on-site water supply for group campground and so cattle can be restricted from access to riparian areas.</p>	<p>As part of the arrangement with the land trust on the District's purchase of Berryessa Vista, the land trust is willing to use some of the proceeds from the transaction to fund a well pump and distribution system at the Preserve. However, the first well drilled by the City of American Canyon came up dry. The City has dropped plans for digging any more test wells. Instead, another attempt to extend a city water line to the property is being considered.</p>
<p>Oat Hill Mine Trail Grand opening to the Oat Hill Mine Trail with weekend of signage installation, brush removal and erosion control</p>	<p>A major volunteer work party weekend took place May 16-18, 2008, and the trail was then formally opened. A second group of 18 volunteers in November 2008 spent a day doing additional erosion control work. The judge hearing the legal challenge to the trail in December 2008 denied the substance of all of the issues raised by the plaintiff; the County is now waiting to see whether the plaintiff will drop the challenge or appeal the ruling. <u>The plaintiff in late April 2009 selected new legal counsel to represent him; this is now the third legal counsel he has used on this case.</u></p>
<p>Rector Ridge/Stags Leap Ridge Trail Construction of staging area and 6+ miles of Ridge Trail climbing east from Silverado Trail near Rector Creek.</p>	<p>CEQA on this project was completed several years ago--though minor updating will be required due to the passage of time. The project concept has been approved by the District Board. Staff has met with the Pathway Home Project leadership at the Veterans Home, who are supportive of the trail as an amenity which will benefit their program. <u>District staff with assistance from the Ridge Trail Council has completed a draft agreement which is now being considered by the Veterans Home leadership.</u></p>

River to Ridge Trail	Lot line adjustment to legalize River to Ridge Trail as constructed (it currently encroaches on private property in two locations), and improvements to the Highway 221 entrance to the trail.	Lot line adjustment approved by Syar Properties. The California Department of General Services has decided it cannot do a lot line adjustment without legislative authorization; the County is therefore sponsoring legislation carried by Assemblymember Evans to grant the necessary authority. The legislation unanimously cleared its policy committees in the Assembly and will come up shortly for a floor vote. In November 2008 five Valley Oak trees were planted at the Highway 221 entrance to the trail with the assistance of a volunteer from CNPS. The new information kiosk installed at the entrance in December 2008 as part of a Boy Scout project leaked during the past rains, and needs to be repaired.
Skyline Park Protection	Permanent Protection for Skyline Park	Three past legislative efforts to authorize sale to the County failed due to unrelated disagreements between the state legislature and administration. The County is again pursuing legislation to authorize the County to purchase the property. Separately, the County is pursuing development of a park overlay zone to protect public lands such as Skyline Park. New language has been included in the new draft General Plan to allow development of a park overlay zone. Staff is now preparing an amendment to the Zoning Ordinance to accomplish this. Chandler and Chandler was retained in November 2008 to assist with the preparation of a Master Plan for the park; that work is now underway. <u>The draft Master Plan will be brought to the District Board for review and comment at its June 2009 meeting.</u>
Skyline Park Improvements	Partner-sponsored improvement include a second greenhouse and a covered equestrian arena.	The proposals for a second greenhouse and a covered arena improvements were approved by the Department of General Services and by the County Board of Supervisors. The sponsors of these projects are now raising funds for implementation.
South Napa Wetlands Habitat Area	Transfer to the District those wetlands owned by the Napa County flood control district between the Napa River, Highway 29 and Newport Drive for use as habitat and nature-based recreation.	Transfer approved in concept by the flood control district. Staff led a tour of the property on May 22, 2008 in conjunction with the Napa County Watershed Symposium to discuss options and constraints at the site related to public use and environmental education. The District sponsored a workshop with high school science teachers in October to discuss ways to use the site for educational purposes. Park District staff has prepared the first draft of a transfer agreement, which is now under review by the flood district. <u>Flood District and Park District staff met with the President of the Yacht Club in early May to discuss access issues and future possible uses for the property.</u>
Vallejo Lakes	Possible purchase of 1100 acres of surplus Vallejo Water District lands, of which 200 acres are located in Napa County	Staff-level discussions between the District, the Land Trust of Napa County, the County of Solano and the Solano Land Trust indicate a common desire to work together to purchase this property adjacent to Skyline Park. The City Council of the City of Vallejo has officially authorized staff to pursue surplus of the property. District staff and our partners are continuing to research issues related to the property, including potential public access locations, potential trail alignments, and easements and other encumbrances which affect the property. The State Coastal Conservancy has indicated an interest in assisting with the funding necessary to purchase the property. We are now waiting for the City to complete title research for the property so that an appraisal can be prepared.
Vine Trail	A Class I bicycle/pedestrian path extending from Calistoga to the Vallejo Ferry Terminal	The District has entered into an MOU with the Vine Trail Coalition to provide assistance as requested by the Coalition in receiving funds, preparing plans and environmental documents, constructing and operating the trail. <u>The District on May 1st submitted a request to Congressman Thompson to include the Vine Trail as an authorized project within the next federal surface transportation program.</u>
Wild Lake Ranch	Possible joint management of trails, camping and picnic areas through agreement between the Land Trust, the District and State Parks	The District is participating in the development of a strategic plan for the property, together with other public lands in the area, that is being led by the Land Trust of Napa County. The advisory committee has met once, and completed a field trip to inspect the property. The planning process was put on hold due to the freeze in state bond funded grants; <u>the freeze was lifted in April 2009, but due to changes in staffing at the land trust it is not clear when the planning process will restart.</u>

**Completed Projects**

Berryessa Vista Acquisition	Purchase of 224 acres from the Land Trust of Napa County for use as a public park.	The purchase is complete. Invoice to the State to obtain Prop 12 reimbursement of the purchase has been submitted.
Connolly Ranch	Construction of patio, restrooms and cooking facilities	The project is complete, and the State has approved Prop 12 reimbursement for project costs.
Linda Falls	Accept conservation easement from Land Trust of Napa County to provide additional protection for this 39 acre property, which is owned by the land trust	Easement acquired in spring of 2008.
Master Plan Development		The revised draft Master Plan was approved in January 2009, and the final plan with revisions incorporated is now complete.
Moore Creek Open Space Park Acquisition	Acquisition of 673 acres in the Moore Creek Watershed	Escrow closed on December 24, 2008.
Napa River Ecological Reserve	Trash enclosure and removal of graffiti	Project completed.
Napa River Ecological Reserve	Paving the parking area, and control vehicle access through placement of rock barriers	The project is complete, and the State Prop 12 reimbursement has been received.
Napa River Ecological Reserve	Routine maintenance to remove litter and graffiti	RFP issued in Oct 2008 seeking a non-profit contractor to provide the maintenance, and a maintenance contract with Options3 started January 1, 2009.
Napa River Flood Control Easement	Conservation easement held by District to facilitate Flood District project and grant funding	Easement completed.
River to Ridge Trail Enhancements	Installation of animal silhouettes along the entryway fence illustrating the types of birds and mammals that can be found in the area.	Installation completed through an Eagle Scout candidate project.
Skyline Park Improvements Phase I	Prop 12 funding for erosion control work on Lake Marie Road, and paving of campground loop road.	Project is complete, and Prop 12 reimbursement has been received.