

RECLAMATION

Managing Water in the West

Finding Of No Significant Impact

Kelsey Ranch Conservation Easement Acquisition

Recommended: *Douglas O'Leary* Date: 11/15/11
Environmental Specialist

Recommended: *David J. Smith* Date: 11/16/11
Program Manager, Central Valley
Project Conservation Program

Approved: *Christopher L. Lept* Date: 11/29/2011
Chief, Division of Environmental
Affairs

FONSI No. 11-18-MP



U.S. Department of the Interior
Bureau of Reclamation
Mid-Pacific Region

Background

The Bureau of Reclamation (Reclamation) proposes to provide \$1,000,000 from the Central Valley Project Conservation Program (CVPCP) and the CVPIA Habitat Restoration Program (HRP) to The Trust for Public Land (TPL) toward the acquisition of a 2,997-acre conservation easement on the 6,148-acre Kelsey Ranch. Kelsey Ranch is located north of the Merced River, approximately 5 miles east of State Highway 59, near the community of Snelling in Merced County.

Purpose and Need for Action

The purpose of the action is to permanently protect the natural resources and agricultural values of the Kelsey Ranch (Ranch), including habitats for federally listed species impacted by the construction and operation of the Central Valley Project (CVP), through the purchase of a conservation easement. The following federally listed species have been observed on the Ranch: California tiger salamander (*Ambystoma californiense*); vernal pool fairy shrimp (*Branchinecta lynchi*); Hartweg's golden sunburst (*Pseudobahia bahiifolia*); succulent owl's Clover (*Castilleja campestris* ssp. *succulenta*); and valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*) habitat. A conservation easement would prevent the conversion of the property to rural residential home sites, thereby protecting vernal pools, grassland, blue oak savanna and riparian habitats while preserving the Ranch's agricultural viability by allowing cattle ranching to continue in an environmentally sustainable manner. The Ranch is also under the threat of conversion to orchards and vineyards, which is occurring at a rapid rate in that area of eastern Merced County.

Findings

Reclamation prepared an environmental assessment (EA) on the proposed conservation easement in November 2011 which is incorporated by reference. Reclamation has found that the proposed action is not a major Federal action that will significantly affect the quality of the human environment. Therefore, an environmental impact statement is not required for carrying out the proposed action. The EA complies with the Council of Environmental Quality's Regulations (40 CFR 1500-1508), Department of the Interior Regulations (43 CFR Part 46) and other requirements such as the Endangered Species Act, the National Historic Preservation Act (NHPA), and local and State requirements (see below).

Following are the reasons why the impacts of the proposed action are not significant:

1. Acquisition of a conservation easement will not change land use. The conservation easement will preserve the conservation values as found at the time the easement is recorded, with allowances for limited agricultural intensification and expansion onto other areas of the Ranch
2. The conservation easement will permanently protect Kelsey Ranch and thus provide a long-term, perpetual benefit to CVPCP and HRP priority species and habitats, including habitats for federally listed CVP impacted species. On June 17, 2011, Reclamation initiated informal consultation with the U.S. Fish and Wildlife Service (Service) on CVPCP and the HRP project activities for Fiscal Year 2011. On November 8, 2011, the Service informed Reclamation that the 2011 CVPCP/HRP projects, including the Proposed Action, are not likely to adversely affect federally listed species or their critical habitats.

3. The proposed action has no potential to affect historic properties. A Reclamation Archaeologist from the Mid-Pacific Region has evaluated the project for its potential to effect historic properties. On November 1, 2011, the Archaeologist informed the Reclamation Project Manager that the Proposed Action has no potential to affect historic properties, and as such Reclamation has no further obligations under Section 106 of the NHPA.
4. The Proposed Action will not affect any Indian Trust Assets.
5. Implementing the Proposed Action will not disproportionately affect minorities or low-income populations and communities.
6. The Proposed Action will not have significant cumulative impacts.
7. There is no potential for the effects of the Proposed Action to be considered highly controversial.

RECLAMATION

Managing Water in the West

Environmental Assessment

Kelsey Ranch Conservation Easement Acquisition



**U.S. Department of the Interior
Bureau of Reclamation
Mid-Pacific Region**

November 2011

Background

The Bureau of Reclamation (Reclamation) proposes to provide \$1,000,000 from the Central Valley Project Conservation Program (CVPCP) and the Central Valley Project Improvement Act Habitat Restoration Program (HRP) to The Trust for Public Land (TPL) toward the acquisition of a 2,997-acre conservation easement on the 6,148-acre Kelsey Ranch. Kelsey Ranch (Figure 1) is located north of the Merced River, approximately 5 miles east of State Highway 59, near the community of Snelling in Merced County.

Purpose and Need for Action

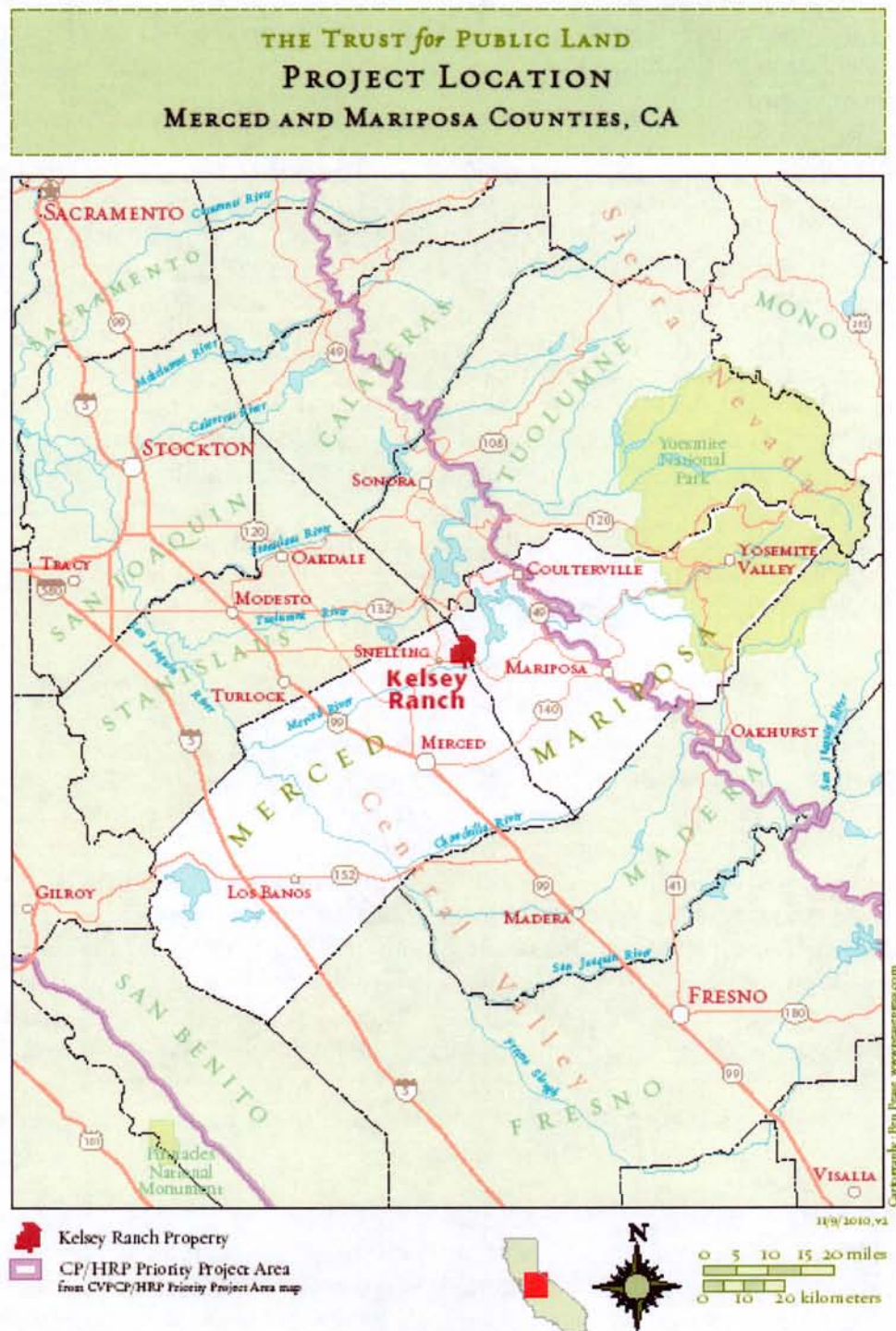
The purpose of the action is to permanently protect the natural resources and agricultural values of the Kelsey Ranch (Ranch), including habitats for federally listed species impacted by the construction and operation of the Central Valley Project (CVP), through the purchase of a conservation easement. The following federally listed species have been observed on the Ranch: California tiger salamander (*Ambystoma californiense*); vernal pool fairy shrimp (*Branchinecta lynchi*); Hartweg's golden sunburst (*Pseudobahia bahiifolia*); succulent owl's clover (*Castilleja campestris. succulenta*); and valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*) habitat. A conservation easement would prevent the conversion of the property to rural residential home sites, thereby protecting vernal pools, grassland, blue oak savanna and riparian habitats while preserving the Ranch's agricultural viability by allowing cattle ranching to continue in an environmentally sustainable manner. The Ranch is also under the threat of conversion to orchards and vineyards, which is occurring at a rapid rate in eastern Merced County.

Proposed Action and Alternatives

No Action: Reclamation would not contribute \$1,000,000 of CVPCP and HRP funds to TPL to help purchase a conservation easement on the Ranch. TPL would need to obtain \$1,000,000 from other private and public sources, in addition to \$2,048,000 of non-CVPVP/HRP.

Proposed Action: Reclamation would contribute \$1,000,000 from the CVPCP and the HRP to TPL toward the acquisition of a conservation easement on approximately 2,997 acres on the 6,148-acre Ranch. TPL would obtain the remaining \$2,048,000 from other sources. The total cost of the project is estimated to be \$3,048,000, which includes \$3,000,000 to purchase the conservation easement; \$18,000 for title insurance, closing costs, and appraisal costs; and other costs. Other funds sought for this project include \$1,250,000 from the California Wildlife Conservation Board, \$350,000 from the California Department of Transportation's (Caltrans) Environmental Enhancement and Mitigation Program, and \$400,000 from the U.S. Fish and Wildlife Service (Service) Section 6 program. The remaining \$18,000 of transactional expenses would be contributed by TPL, in addition to an estimated \$30,000 in TPL in-kind staff costs.

Figure 1. Kelsey Ranch Location



Prior to acquisition of the conservation easement, TPL would prepare a Baseline Conditions Report outlining the condition of the property, including documentation of the types of habitat on the property and the acreage of each. The grantee and long-term holder of the conservation easement (intended to be California Rangeland Trust) would conduct monitoring over the life of the easement to ensure that the easement restrictions are upheld.

The conservation easement will specifically define "Conservation Values" to include rangeland values, natural habitats, and archaeological and cultural resources on the property. These Conservation Values will include, but are not limited to, vernal pools and other vernal wetlands, annual grasslands, riparian habitats, and blue oak savanna on 2,997 acres of open space that will provide unimpeded migration and year-round habitats for numerous wildlife species, while allowing for limited agricultural activities.

The current landowners have been good stewards of the land and have maintained the Ranch in excellent condition. The Baseline Conditions Report would document the presence and health of the Ranch's Conservation Values and the natural resources present at the time of recording of the conservation easement. The conservation easement would aim, at a minimum, to preserve the Conservation Values as found at the time the easement is recorded, with allowances for limited agricultural intensification and expansion onto other areas of the Ranch where the activity would not affect habitats for federally listed or other CVP impacted species.

The conservation easement would define the areas that can be farmed (Farmable Areas). The remaining areas would be available for cattle grazing, at a timing and level that will prohibit negative impacts to federally listed and other species. No leveling, drainage, or other disturbances beyond limited vehicular use for ranching purposes, and the grazing itself, would be allowed in areas containing vernal pools and other sensitive habitats. The conservation easement will contain provisions to protect sensitive species such as Hartweg's golden sunburst and succulent owl's clover by limiting active cultivation, preventing introduction of exotic species, and managing grazing at levels appropriate for maintaining and improving habitats for listed species and other Conservation Values. Grazing is an important element of the natural cycle of vernal pool ecology.

The designated grantee of the conservation easement shall have the right to monitor and enforce the terms of the easement. The grantee would be entrusted with ensuring that no activities would threaten the long-term viability of the Conservation Values of the Ranch, including the CVP impacted species habitats that are the focus of the Proposed Action.

Long-term protection of the Conservation Values of the easement can be measured by improvements in baseline conditions. The conservation easement will include a specific section on monitoring, management and issue resolution. Issues such as grazing management, management of recreation and other human uses, invasive species and other potential pests, and development and management of water would be addressed in a Monitoring and Management Plan. This plan would be submitted prior to recording of the conservation easement and receipt of CVPCP/HRP funding.

Affected Environment and Environmental Consequences

Biological Resources

Affected Environment

The 2,997-acre area of the Proposed Action contains a variety of natural and man-made land types that provide habitat for a diversity of CVP impacted habitats and species, including numerous state and federally listed threatened and endangered plants and animals that are the focus and priority of the CVPCP and HRP. (See Figure 2).

Types of habitats and number of acres

Annual Grassland - In spite of their non-native origins, annual grassland ecosystems are a conspicuous and ecologically critical component of the contemporary California landscape which provide important habitat values for CVP impacted upland species. The ranch contains approximately 1,200 acres of annual grasslands.

Vernal Wetlands - Vernal pools are seasonally flooded basins underlain by one of several kinds of restrictive soil layers which prevent downward percolation, causing ponding of water during the rainy season. Vernal pools support a unique assemblage of plants and animals, including many rare and endangered species specifically adapted to this hydrologic regime. Eastern Merced County supports the largest un-fragmented block of vernal pool habitats remaining in California (Vollmar, 2002). Approximately 20 acres of vernal pools are contained within an area of approximately 450 acres of vernal wetlands on the Ranch.

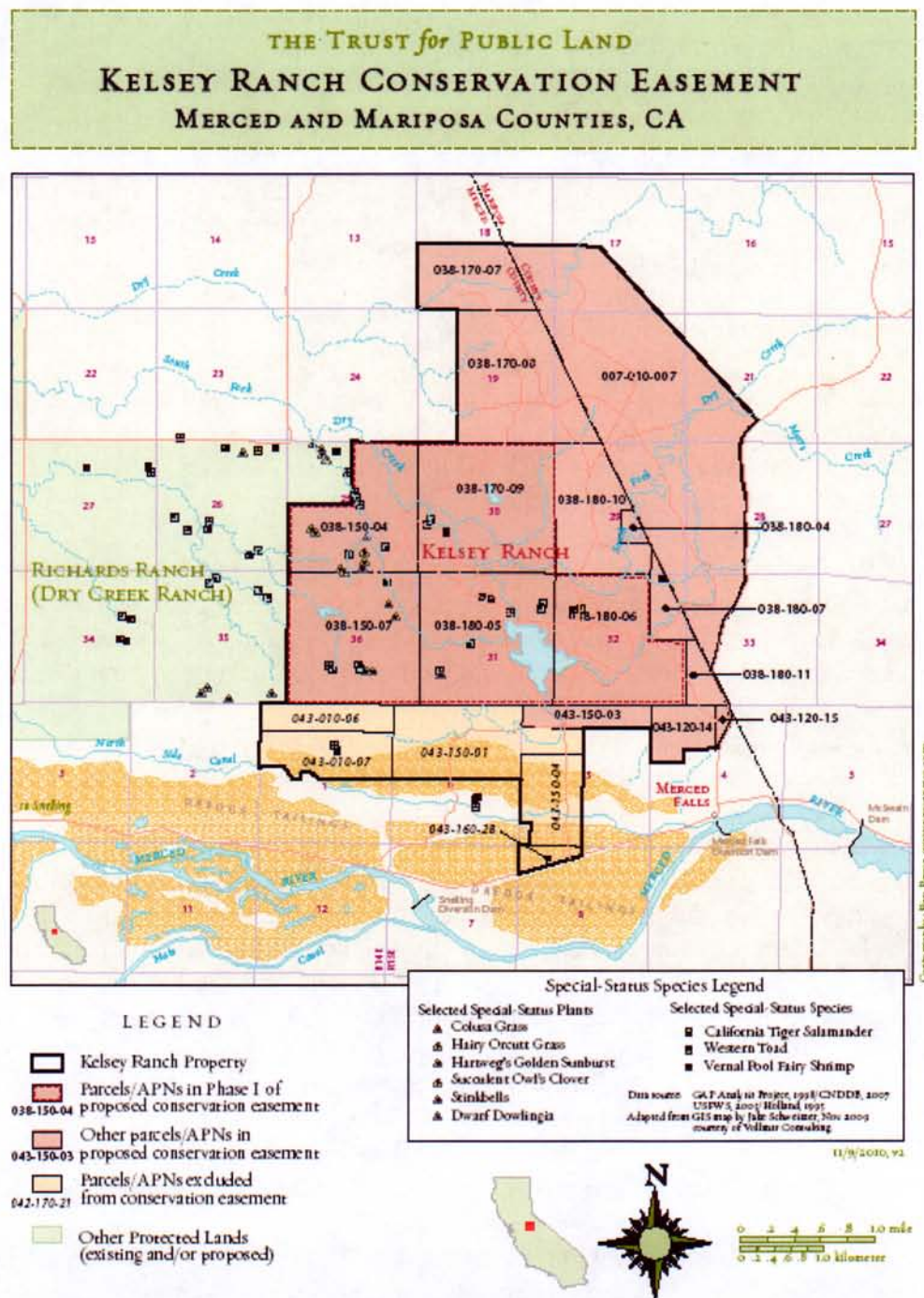
Riparian Woodland/ Scrub

Riparian scrub and other riparian habitats grow along the banks of Dry Creek and other perennial and seasonal waterways, around the 120-acre Kelsey Reservoir, and around some stock ponds on the Ranch. The easement area supports approximately 160 acres of mixed riparian habitats.

Blue Oak Savanna - Blue oak savanna is characterized by a sparse, open canopy of blue oaks (*Quercus douglasii*) with an annual grassland understory. As described by Holland (1986), blue oak savanna usually occurs at lower elevations than blue oak woodland. While highly restricted, this habitat type provides unique habitat values for wildlife species such as Loggerhead Shrike and Lawrence's Goldfinch, which were found only within this habitat type during ranchland field surveys (Vollmar, 2002). There are about 400 acres of blue oak savanna in the easement area.

Other Aquatic Habitats - There are numerous man-made wetland features on the Ranch that provide aquatic habitats for a variety of wildlife and plant species including the 120-acre Kelsey Reservoir, perennial stock ponds, seasonal stock ponds, and irrigation canals. Each of these provides unique aquatic habitats. The Ranch holds water rights from the Merced River dating from 1852. Currently the Ranch imports about 2,500 acre-feet of water per year during the irrigation season.

Figure 2. Kelsey Ranch Biological Resources



Farmlands - While farmland is primarily a human-created environment, it does provide habitat elements useful to wildlife. Annual crops (irrigated and non-irrigated), pastures, and ruderal fields provide foraging habitat for wildlife, especially for birds including Northern Harrier, Prairie Falcon, and White-Tailed Kite. The easement area includes approximately 416 acres of irrigated pasture, and 200 acres of irrigated farmland used to grow hay and corn silage for cattle feed. The Ranch supports approximately 700 cows annually.

Environmental Consequences – Proposed Action

The conservation easement would protect in perpetuity five parcels totaling 2,997 acres. The easement would protect habitats for the federally listed Hartweg's golden sunburst, succulent owl's clover, vernal pool fairy shrimp, California tiger salamander, and valley elderberry longhorn beetle.

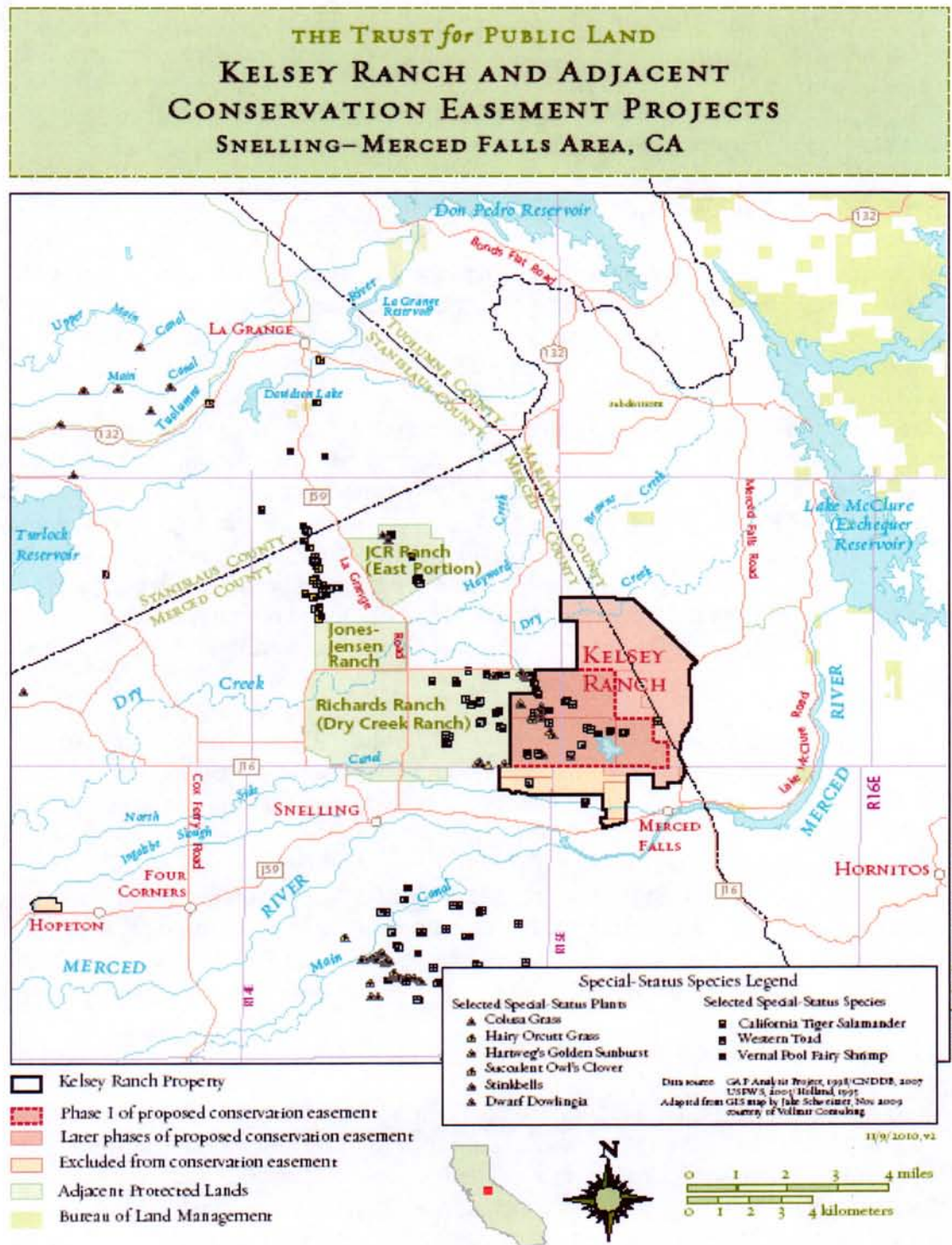
The conservation easement would permanently protect a working cattle ranch and its cultural and natural resources including vernal wetlands, annual grasslands, riparian, aquatic, blue oak savanna, and other habitats. The purchase of the easement would complement the Dry Creek Ranch and JCR Ranch conservation easements, purchased in part through grants awarded by the CVPCP and HRP in 2009 and 2010, respectively. The Dry Creek Ranch, at approximately 5,000 acres, borders Kelsey Ranch to the west and has documented occurrences of many of the same federally listed species and other habitats and resources found on the Kelsey Ranch. The JCR Ranch conservation easement lies approximately three miles northwest of Kelsey Ranch. (See Figure 3.)

The Kelsey Ranch conservation easement would further TPL's efforts to develop a landscape scale conservation vision in eastern Merced County. Conservation easements in the area will protect thousands of acres of vernal pool wetlands, oak savanna/woodland, riparian, and other habitats that contribute to the overall health of the region's ecosystems. In addition, TPL anticipates that neighboring ranchers will also seek funds for conservation easements. Many of them have expressed great interest in the idea of protecting their properties with a conservation easement. Seeing the successful acquisition of a conservation easement on Kelsey Ranch would offer a strong incentive to encourage landowners to work with TPL and others to apply for conservation easement funding.

Environmental Consequences – No Action

If Reclamation does not provide funds to help purchase the Kelsey Ranch conservation easement, TPL would have to seek additional funds from current funding partners or others. The effects of No Action would be the same as the Proposed Action if TPL is able to obtain the additional funds from those sources. If not, TPL will not be able to purchase the conservation easement, and the federally listed species benefits that are expected to occur with the easement would not take place. Recent development pressures in the foothills surrounding the Ranch have resulted in conversion of rangelands to ranchettes, orchards, and vineyards. The property adjacent to the Ranch to the northeast was recently sold to a Southern California investment

Figure 3. Kelsey Ranch and Adjacent Conservation Easement Projects



company. This has raised concerns that in the near future the owner of the Kelsey Ranch may seek financial gain by selling his property to developers as his neighbors have, which could result in the cessation of conservation compatible cattle ranching should the conservation easement option not be available due to a lack of CVPCP/HRP funding.

Cultural Resources

“Cultural resources” is a broad term used to describe both ‘archaeological sites’ depicting evidence of past human use of the landscape and the ‘built environment’ as embodied in structures such as buildings, walls, roadways, dams, canals, etc. The National Historic Preservation Act (NHPA) of 1966, as amended, is the primary legislation outlining the Federal government’s role in the preservation of prehistoric and historic resources. Section 106 of the NHPA requires the Federal government to take into consideration the effects of its undertakings on cultural resources included in, or eligible for inclusion in, the National Register of Historic Places (NRHP). Cultural resources included in, or eligible for inclusion in, the NRHP are referred to as historic properties.

36 CFR Part 800 implements Section 106 of the NHPA and outlines the process used by Federal agencies to identify the effects, if any, that a proposed undertaking will have on historic properties. In summary, the Federal agency must first determine if the Proposed Action comprising its undertaking involves the type of activity that has the potential to cause effects on historic properties, assuming such historic properties are present. If an activity does not have the potential to affect historic properties, the agency has no further obligations under Section 106. If an undertaking involves the type of activity that has the potential to affect historic properties, the Section 106 process continues as outlined at 36 CFR Part 800.

Affected Environment

The Ranch is situated at the interface of the northern San Joaquin Valley and the western Sierra Nevada foothills, in the vicinity of the Merced River. This geographic area, in general, has a long and complex history of past human use dating back thousands of years, as evidenced by the presence of prehistoric archaeological sites on the landscape. At the time of European-American arrival in the region, the northern San Joaquin Valley was occupied by people known ethnographically as the Northern Valley Yokuts, while the western Sierra Nevada foothills in this area were inhabited by people referred to as the Southern Sierra Miwok (Levy 1978:400). Both the Northern Valley Yokuts and the Southern Sierra Miwok, following the pattern typical throughout much of California, were loosely organized self-governing local groups or tribelets engaged in hunter-gatherer subsistence practices, for whom the biological family formed the basic domestic and economic unit.

The exploration and settlement of California’s interior by non-indigenous groups began in earnest during the early 1800s, and by the late 1830s and early 1840s several small permanent European-American settlements had been established in the northern San Joaquin Valley and surrounding areas. The gold rush, the expansion of railroad and mining interests, and the development of farming and ranching led to additional growth in the region throughout the 19th and early 20th centuries. Cultural resources ranging from the prehistoric through historic periods

are common in this part of California and are known to exist within the conservation easement. These cultural resources include Native American archaeological sites, relics of mining operations, and rock walls and other structures associated with the early settlement, ranching, and grazing of the area.

Environmental Consequences – Proposed Action

Reclamation's Proposed Action is to provide TPL with funds to help purchase the conservation easement on the Ranch. Included in the conservation easement are defined Conservation Values, among them conservation and sustainment, in perpetuity, of archaeological and cultural resources on the property. As the conservation easement deed specifies that the excavation, removal, destruction, or disturbance of archaeological sites, artifacts, remains or other features found on the easement area is prohibited and that the landowner shall take all reasonable precautions to protect archaeological sites from looting, vandalism, or destruction from any cause, the Proposed Action is seen as the type of activity that has no potential to cause effects on historic properties, pursuant to 36 CFR Part 800.3(a)(1). Because there is no potential to cause effects on historic properties, the Proposed Action will result in no impacts to cultural resources.

Environmental Consequences – No Action

Under the No Action alternative, Reclamation would not contribute funds to TPL to help purchase the conservation easement on the Ranch. If TPL is able to obtain sufficient funding from other sources to complete the purchase, the effects of the No Action and Proposed Action alternatives would be the same, i.e., no impacts to cultural resources. If TPL is not able to purchase the conservation easement due to lack of funding, and lands within the Ranch are sold and converted to ranchettes, orchards, and vineyards as has happened recently on nearby properties, significant impacts to historic properties and other cultural resources could potentially result.

Applicable Laws and Regulations

National Historic Preservation Act (16 USC 470 et. seq.)

The Proposed Action is not the type of activity that has the potential to cause effects to historic properties pursuant to 36 CFR 800.3(a) (1) of the National Historic Preservation Act. A Reclamation archaeologist from the Mid-Pacific Region has evaluated the project for its potential to effect historic properties. On November 1, 2011, the archaeologist informed the Reclamation Project Manager that the Proposed Action has no potential to affect historic properties, and as such Reclamation has no further obligations under Section 106 of the NHPA. Attached is a copy of an email from the archaeologist attesting to that determination.

Indian Trust Assets

Indian Trust Assets (ITAs) are legal interests in property or rights held in trust by the United States for Indian Tribes or individual Indians. Indian reservations, Rancherias, and Public

Domain Allotments are common ITAs in California. The nearest ITA is a Public Domain allotment approximately 21 miles east of the project location. Therefore, the Proposed Action would not adversely affect ITAs.

Environmental Justice

Executive Order 12898 requires each Federal agency to identify and address disproportionately high and adverse human health or environmental effects, including social and economic effects of its programs, policies, and activities on minority and low-income populations. Because the Proposed Action would result in no change in existing or similar land uses, there would be no adverse human health or environmental effects to minority or low-income populations.

Consultation and Coordination with Others

Endangered Species Act (16 USC. 1521 et seq.)

Section 7 of the Endangered Species Act requires Federal agencies to ensure that all federally associated activities do not jeopardize the continued existence of threatened or endangered species, or result in the destruction or adverse modification of the critical habitat of these species. Action agencies must consult with the Service, which maintains current lists of species that have been designated as threatened or endangered, to determine the potential impacts a project may have on protected species.

On June 17, 2011, Reclamation initiated informal consultation with the Service on the CVPCP and the HRP project activities for Fiscal Year 2011. On November 8, 2011, the Service informed Reclamation that the 2011 CVPCP/HRP projects, including the Proposed Action, are not likely to adversely affect federally listed species or their critical habitats.

Meetings

The CVPCP/HRP Technical Team reviewed and ranked the Kelsey Ranch Conservation Easement Acquisition proposal during the HRP and CVPCP proposal review period in Spring 2011. The Kelsey Ranch proposal ranked in the Programs' top tier of land acquisition proposals and was selected for funding after evaluation of the project. As part of the review a site visit was conducted by the CVPCP/HRP Program Managers and members of the Technical Team, the TPL project manager, and the landowner.

Bibliography

Holland, R.F. (1986). Preliminary descriptions of the terrestrial natural communities of California. California Department of Fish and Game unpublished report.

Levy, R. (1978). "Eastern Miwok" in: *Handbook of North American Indians, Vol. 8, California*. William C. Sturtevant and Robert F. Heizer, eds. Smithsonian Institution: Washington, DC.

Vollmar, J.E., (Ed.). 2002. Wildlife and Rare Plant Ecology of Eastern Merced County's Vernal Pool Grasslands. Vollmar Consulting, Berkeley, CA. (This survey was conducted to provide baseline data to the California Department of Fish and Game, U.S. Fish and Wildlife Service, and others for long-term regional conservation planning related to vernal pools and annual grasslands and their associated endangered, threatened and rare species.)

Attachment

Cultural Resources Compliance Email

From: Goodsell, Joanne E
Sent: Tuesday, November 01, 2011 9:53 AM
To: Kleinsmith, Douglas H
Cc: Strait, Daniel H; Barnes, Amy J; Bruce, Brandee E; Dunay, Amy L; Fogerty, John A; Nickels, Adam M; Overly, Stephen A; Perry, Laureen (Laurie) M; Soule, William E; Williams, Scott A
Subject: Kelsey Ranch Conservation Easement (11-SCAO-142)

Follow Up Flag: Follow up
Flag Status: Flagged

Tracking #: 11-SCAO-142

Project: Kelsey Ranch Conservation Easement Acquisition

Location: Merced County, north of the Merced River, approximately 5 miles east of State Highway 59, near the community of Snelling (T. 4 S., R. 14 E., and T. 4 S., R. 15 E.) Merced County, California

Doug,

Reclamation's Proposed Action to contribute \$1,000,000 from the Central Valley Project Conservation Program and the CVPIA Habitat Restoration Program to The Trust for Public Land toward the acquisition of a 2,997-acre conservation easement on the 6,148-acre Kelsey Ranch involves the type of activity that has no potential to cause effects on historic properties, pursuant to 36 CFR Part 800.3(a)(1). The acquisition of this conservation easement is intended to ensure the protection of habitats for federally listed species impacted by the construction and continued operation of the Central Valley Project by preventing the conversion of the property to rural residential home sites, orchards, and/or vineyards, which is occurring at a rapid rate in eastern Merced County, where the Ranch is located.

As the Proposed Action has no potential to affect historic properties, Reclamation has no further obligations under Section 106 of the National Historic Preservation Act. Please place a copy of this email administrative record for this action.

Joanne Goodsell, M.A., Archaeologist
Bureau of Reclamation, Mid-Pacific Regional Office
2800 Cottage Way, MP-153
Sacramento, CA 9582