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April 28, 2010

Supervisor Helen Thomson
JPA Board Chair
Yolo County NCCP/HCP Joint Power Authority

Subject: JPA Participation in the Kerr and Koontz Swainson's Hawk Easement Acquisitions

Dear Supervisor Thomson:

Over the last 15 years, the City of Davis and Yolo Land Trust (YLT) have cooperatively pursued the acquisition of conservation easements along Dry and Willow Sloughs between Woodland and Davis. These acquisitions began in 1996 when the City recorded a 75-acre agricultural conservation easement at the southeast corner of County Roads 29 and 99 to mitigate expansion of the municipal golf course. In 2004, Yolo Land Trust purchased a 283-acre agricultural conservation easement from E&J Farms. More recently, the City and YLT have purchased agricultural easements on four farms totaling 553 acres. The result of these successful acquisitions has been the permanent conservation of a significant amount of prime farmland. These conservation easements have not, however, been effective in protecting Swainson's hawk habitat. In fact, the opposite has been the result. The landowners of all but two of these easements have already reinvested, or indicated an intent to reinvest, their easement proceeds to develop permanent orchard plantings.

In March 2009, after years of preliminary discussions, the City and YLT began to pursue four new projects within the Dry Slough Corridor: Kerr Farm, Koontz Farm, Beoshanz Farm, and the Staib-72 Farm. Given these properties high foraging and nesting habitat value for Swainson's hawk, and the current trend of orchard conversion along Dry Slough, the City and YLT felt that it was important to attempt to acquire Swainson's hawk easements on these farms. Initial meetings with the Kerr, Koontz, and Beoshanz families indicated that their plans for continued production of irrigated field crops were compatible with the restrictions of a Swainson's hawk easement. In May 2009, these three families and the City shared the cost of appraising the easement value of each farm based on a conservation easement template that sustains Swainson's Hawk habitat; namely, prohibiting permanent plantings such as orchards or vineyards.

Once the appraisals were completed, the City and YLT began to seek funding partners to leverage the \$2.3 Million required to complete all four of these Dry Slough Corridor projects. Although the projects ranked highly, they did not receive grant awards for the 2009 round of

funding from the NRCS Farm and Ranch Lands Protection Program (FRPP) that were announced in August. We also received a formal response from the NRCS that FRPP funds could not be used to fund Swainson's hawk easements because such easements restrict agricultural practices which is prohibited under the FRPP regulations.

In mid 2009, the City and YLT approached the Yolo Natural Heritage Program (YNHP) staff to explore the possibility of partnering on the Dry Slough Corridor projects. As a member of the JPA, the City was aware that the YNHP had recently purchased Swainson's hawk easements in the southern portion of the County with mitigation funds it had collected. Based on biological assessments conducted by the California Department of Fish & Game as well as Swainson's hawk experts, the Dry/Willow Slough area between Woodland and Davis is recognized as some of the most important habitat in the state for this species. In recognition of the common goals of the City and JPA to protect Swainson's hawk habitat, the City presented a proposal to the JPA Board to partner on the Kerr and Koontz properties located on Dry Slough. It is the City's understanding that the JPA Board of Directors responded positively to the City's proposal and tentatively committed up to \$500,000 to the project at their September 21, 2009 meeting. In subsequent discussions with YNHP staff, the City agreed to apply the JPA funds to the Kerr and Koontz projects and pursue purchase negotiations with the landowners.

Based on the JPA Board's action and equivalent authorization from the Davis City Council, the City and YLT concluded negotiations with the owners of the Kerr and Koontz farms and reached agreement on purchase terms and general easement restrictions in early December. This was particularly significant for the Kerr family since it required unanimous agreement by three siblings and their spouses. We also established a tentative schedule to close escrow in April 2010, anticipating that it would take several months to finalize easement language and enter a formal agreement for JPA funding.

In March, YNHP staff informed us that the commitment of the JPA funds to the Kerr and Koontz easement projects were in jeopardy because of the potential loss of a USFWS grant. We recently learned that YNHP was denied the USFWS planning grant.

Fearing the loss of YNHP funds to complete the Kerr and Koontz projects, the City and YLT wish to formally request that the JPA Board of Directors finalize its commitment to partner on the Kerr and Koontz easements. We respectfully request this action for the following reasons:

1. The projects protect extremely valuable Swainson's hawk nesting and foraging habitat. The Kerr and Koontz farms are adjacent to each other and support of 0.8 miles of contiguous riparian corridor along Dry Slough. In 2009, a nesting pair of Swainson's hawk was observed in the riparian corridor and several hawks were observed foraging in the cropland adjacent to the corridor.
2. The proposed conservation easement for the Kerr and Koontz farms will incorporate all the key provisions of the Swainson's hawk foraging easements previously recorded by the JPA. As such, the easement contains special provision for protection, management and enhancement of the habitat within the riparian corridor along Dry Slough.

3. Acquisition of the Kerr and Koontz easements will be the beginning of a long range plan to protect Swainson's hawk habitat along the Dry Slough Corridor. We are currently developing four additional easement projects designed to protect an additional 1.6 miles of riparian corridor along Dry Slough that will result in the continuous protection of the riparian corridor from County Road 99 to Russell Ranch, a distance of 4 miles. The high quality of the soils and availability of good quality water along Dry Slough make the land highly suitable for orchard development and, without the protection of Swainson's hawk easements, it is likely that a significant portion of the land will be converted to orchard uses which is not conducive to Swainson's hawk habitat.
4. The Kerr and Koontz projects are a very efficient use of mitigation proceeds. By matching the City's commitment of \$500,000 to the Kerr and Koontz projects, the JPA will have secured Swainson's hawk habitat for less than \$3,000 per acre including stewardship and transaction costs. The JPA currently collects \$8,500 per acre for in-lieu mitigation of projects that impact Swainson's hawk foraging habitat. The Kerr and Koontz easements also provide the additional benefit of protecting Swainson's hawk nesting habitat. The mitigation fees saved by leveraging this project with the City could be applied to acquiring additional mitigation habitat.

The budget summary for the project is included as an attachment to this letter.

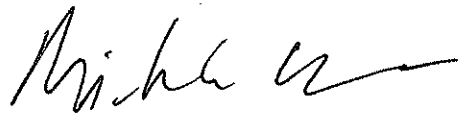
5. JPA funding of the projects at this time will recognize the landowners' commitment to and investment in Swainson's hawk conservation. At their own expense over two years, the landowners have invested considerable funds to resolve ownership issues to further the project. In addition, the City and the landowners jointly funded an appraisal of the property, and the City has funded surveys of the land to establish the protected area of the riparian corridor. Completion of the project in a timely manner will ensure that the investment by the landowners was not in vain. Pursuing the projects with another funder (if one could even be found) will significantly escalate the project costs.

Protection of the Kerr and Koontz Farms with Swainson's hawk conservation easements is critical to the protection of Swainson's hawk nesting and foraging habitat along Dry Slough west of State Highway 113. The JPA's investment in this project meets a number of conservation objectives that will be adopted in the final NCCP/HCP. If the City and YLT are unable to find a new funding partner that is willing to assist with the acquisition of Swainson's hawk easements, we will need to consider a full range of options from abandoning the project to acquisition of less restrictive (and less expensive) agricultural conservation easements. In either case, failure to protect this strategically important Swainson's hawk habitat will be very disappointing to everyone involved.

Sincerely,



Bill Emlen
Davis City Manager



Michele Clark
Yolo Land Trust
Executive Director

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