



COUNTY OF YOLO

Office of the County Administrator

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County Administrator

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To: Honorable Judge Paul Richardson
Superior Court of California, County of Yolo
1000 Main Street
Woodland, CA 95695

September 13, 2016

To: Yolo County Grand Jury
P.O. Box 2142
Woodland, CA 95776
via e-mail: grand-jury@sbcglobal.net

RE: 2015-2016 Yolo County Grand Jury Report – Yolo Habitat Conservancy: A Never Ending Story

Dear Judge Richardson:

On behalf of the Yolo County Board of Supervisors and Chief Financial Officer Howard Newens (as to Recommendation 2 only), this letter responds to the findings and recommendations in the 2015-2016 Yolo County Grand Jury Report entitled “Yolo Habitat Conservancy: A Never Ending Story.” For purposes of readability, we have included the Grand Jury’s recommendations in **bold**. As indicated below, this response also incorporates by reference portions of the response submitted by the Yolo Habitat Conservancy’s Board of Directors and Executive Director, a copy of which is attached hereto (referred to hereinafter as the “Conservancy’s Response”).

F2 Since its inception, the YHC has yet to produce an approved HCP/NCCP plan.

Response: The Board of Supervisors agrees with this finding.

F3 The YHC performance over the last 20 years does not justify the time and money spent.

Response: The Board of Supervisors disagrees with the finding for the reasons stated in the Conservancy’s Response to Finding 3, which is incorporated herein by reference.

R1 By April 30, 2017, the YHC shall submit the HCP/NCCP final plan for approval.

Response: The Board of Supervisors agrees with this recommendation for the reasons stated in the Conservancy’s Response to Recommendation 1, which is incorporated herein by reference.

R2 By September 1, 2016, the YCH shall obtain annual performance audits to measure progress.

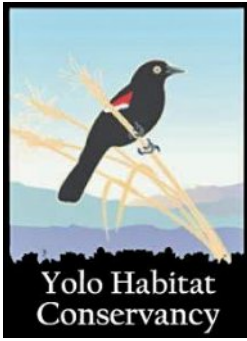
Response: The Board of Supervisors defers to and supports the Conservancy's determination that this recommendation should not be implemented because it is not presently warranted for reasons stated in the Conservancy's Response to Recommendation 2, which is incorporated herein by reference.

Separately, the Chief Financial Officer responds that the Department of Financial Services provided input to the Conservancy in connection with this recommendation as the Conservancy developed its response to the Grand Jury. That input is reflected in the Conservancy's response (attached hereto). In particular, the Department will remain available as a resource to the Conservancy as it considers whether to undertake regular performance audits or similar reviews during implementation of the Yolo HCP/NCCP, and the Department stands ready to assist the Conservancy in its effort to develop performance measures on organizational and budget goals (as well as the twice annual review thereof).

Attachment:

July 18, 2016 response by the Yolo Habitat Conservancy

ATTACHMENT



Yolo Habitat Conservancy

County of Yolo • City of Davis • City of Winters • City of West Sacramento
City of Woodland • University of California, Davis

July 18, 2016

TO: Honorable Judge Paul Richardson
Superior Court of California, County of Yolo
1000 Main Street Street
Woodland, CA 95695

TO: Yolo County Grand Jury
P.O. Box 2142
Woodland, CA 95776
via e-mail: grand-jury@sbcglobal.net

Re: 2015-2016 Yolo County Grand Jury Report – Yolo Habitat Conservancy: A Never Ending Story

Dear Judge Richardson:

This letter responds to the findings and recommendations in the 2015-2016 Yolo County Grand Jury Report entitled “Yolo Habitat Conservancy: A Never Ending Story,” as well as provides some corrections to the report. This response is provided by the Board of Directors of the Yolo Habitat Conservancy and its Executive Director. For purposes of readability, we have included the Grand Jury’s recommendations in **bold**.

Corrections to the Report:

On Page 1, Paragraph 1, there was no JPA prior to 2002 and therefore no Yolo Natural Heritage Program. The previous Board of Directors rebranded the Yolo County HCP/NCCP Joint Powers Agency to the “Yolo Natural Heritage Program” in about 2007. The Board of Directors dropped the Yolo Natural Heritage Program name in 2014 in favor of the “Yolo Habitat Conservancy.” In addition, the efforts in the early 1990s focused only on developing an HCP, not an NCCP (which is significantly more ambitious and guided by the Natural Communities Conservation Planning Act, a state law). After the City of Davis did not adopt the HCP in the late 1990s, the effort was on hiatus until formation of the JPA in 2002. At this time, the JPA elected to pursue an HCP/NCCP.

On Page 1, Paragraph 2, \$6.53 million is the exact amount of expenditures between 2002 and 2012. It was not well in excess of this amount, as the Conservancy has clear records from the financial system and it is documented in audits.

On Page 3, Paragraph 6, the statement referring to a decision maker of the YHC is inaccurate for two reasons: 1) although the Executive Director and the Project Manager both own consulting firms, they are not decision makers, as all decisions are brought to the Board of Directors; 2) the Chair approves the invoices of the Project Manager and Executive Director through a formal process approved by the Board of Directors.

On Page 4, Paragraph 2, the statement that invoices are frequently submitted in an untimely manner is inaccurate. Contractors rarely miss a deadline to submit by the 7th of the month.

F2. Since its inception, the YHC has yet to produce an approved HCP/NCCP plan.

Response: The respondents agree with this finding.

F3. The YHC performance over the last 20 years does not justify the time and money spent.

Response: The respondents disagree with this finding. Initially, the respondents note the finding is not supported by any evidence relevant to the value of a completed HCP/NCCP or other elements of the Conservancy's performance since its formation in 2002. The finding thus does not meet the requirements of Penal Code § 916, which states in part: "Each grand jury shall choose its officers, except the foreman, and shall determine its rules of proceeding. . . . Rules of procedure shall include guidelines for that grand jury to ensure that all findings included in its final reports are supported by documented evidence[.]" The finding expresses the Grand Jury's policy judgment, rather than a factual conclusion, and is difficult to address as a consequence.

Nonetheless, there are many reasons why the Board and Executive Director disagree with the finding, including:

- The past 20 years is not the relevant timeframe for evaluating the Conservancy's performance. The Conservancy did not exist prior to 2002, and virtually all of its work on the HCP/NCCP occurred over the past decade;
- The total cost from 2002-2017 to complete the plan is estimated to be \$10.3 million. This is similar in cost and duration to other HCP/NCCP planning efforts, including the Placer County HCP/NCCP (same stage of development; under development for 15 years at a cost of \$10.5 million to date);
- The Conservancy is now a year away from completing the final HCP/NCCP and submitting it to the California Department of Fish and Wildlife and the United States Fish and Wildlife Service for approval; and
- The Conservancy's Board of Directors and Executive Director anticipate that implementation of the final plan will benefit public agencies and private entities by reducing the cost and uncertainty of project-by-project species permitting issues, and that the twelve species covered by the HCP/NCCP will also benefit from additional, coordinated conservation of habitat.

R1. By April 30, 2017, the YHC shall submit the HCP/NCCP final plan for approval.



This recommendation will be implemented, as it is already included in the Board's adopted timeframe for completing the planning effort. The respondents note that good faith cooperation from other agencies is required on numerous remaining tasks, including the United States Fish and Wildlife and the California Department of Fish and Wildlife to assure submission of the completed plan by April 30, 2017. This cooperation is expected but is not within the Conservancy's control, and it depends upon the allocation of staff resources and other factors within the purview of the federal and state agencies.

R2. By September 1, 2016, the YCH shall obtain annual performance audits to measure progress.

This recommendation will not be implemented because it is not presently warranted. The Conservancy's performance is measured by the Board of Directors based on organizational and budget goals established every year as part of the regular budget process, including a detailed schedule for deliverables related to the Yolo HCP/NCCP. As discussed below, however, the Board of Directors and Executive Director intend to implement one or more alternative methods of enhancing Conservancy oversight and accountability to achieve the underlying purpose the Grand Jury's recommendation.

- The Yolo Habitat Conservancy will consider regular performance audits or reviews of similar intent during the implementation phase of the Yolo HCP/NCCP, which will commence in 2018 after issuance of permits in 2017.
- In coordination with Yolo County's internal auditor, the Yolo Habitat Conservancy will develop performance measures around the organizational and budget goals adopted by the Board of Directors. Yolo County's internal auditor will review these performance measures every six months.

