



PAJARO RIVER WATERSHED
FLOOD PREVENTION AUTHORITY
Phase 4b: Implementation Plan for Soap Lake Floodplain
Preservation Project and Watershed Flood Protection Actions



Technical Memorandum No. 4.2.6

Task: **Identification of Funding Opportunities**
To: **PRWFPA Staff Working Group**
Prepared by: **Tricia Wotan**
Reviewed by: **Lidia Gutierrez, Karen Frye, Tom Scharffenberger**
Date: **March 31, 2005**
Reference: **0053-004.2**

Table of Contents

Introduction.....	2
Background.....	2
Funding Sources.....	3
Implementation Partners.....	3
Public and Private Grants.....	4
Landowner-Incentive Programs.....	13
Development-Based Funding.....	13
Local Tax-Based Funding.....	14
Recommended Funding Tracks and Long-Term Schedule Impacts.....	15
Payment Options.....	18
Conclusions.....	18
References.....	20
Websites for Table 1 Funding Mechanisms.....	20

Funding for this project has been provided in full or in part through a contract with the SWRCB pursuant to the Costa-Machado Water Act of 2000 (Proposition 13) and any amendments thereto for the implementation of California's Nonpoint Source Pollution Control and Watershed Program. The contents of this document do not necessarily reflect views and policies of the SWRCB, nor does mention of trade names or commercial products constitute endorsement or recommendation for use.

Introduction

This technical memorandum describes the results of work completed as part of Task 4.2.7: Identification of Funding Opportunities for the Soap Lake Floodplain Preservation Project as part of the Pajaro River Watershed Study. RMC was tasked with investigating possible funding sources of existing State and Federal programs and determining funding requirements for these external sources, as well as identifying payment options for the lands to be acquired. Also, RMC analyzed long-term schedule impacts of different funding scenarios and developed optional funding tracks for the Pajaro River Watershed Flood Prevention Authority Board's selection.

Background

Previous phases of the Pajaro River Watershed Study (Study) have identified the Soap Lake Floodplain Preservation Project as essential in preserving the natural flow attenuation and storage capabilities of the upper Pajaro River watershed during high flow events.

As part of the land acquisition strategy defined in Technical Memorandum 4.2.1, this project would conserve, either in easement or fee title, approximately 9,000 acres of the Soap Lake area. This would be achieved primarily through acquisitions of conservation easement purchases, along with a limited amount of fee title purchases, all from willing landowners. From a funding standpoint, the acquisition of conservation easements is preferred as it is less expensive than buying land (in fee title) outright, and is a more efficient use of limited funds. The approximate extended cost over the life of the project is \$60 million. In order to fund a project of this magnitude, numerous funding sources and mechanisms will need to be employed over the 20-60 year life of the project.

In order for any project funding effort to be successful, a project needs political backing from local, state, and federal representatives who are aware of the project's relevance and importance to all communities involved. In particular, local district, state, and congressional representatives should be educated as to the relevance of this project for flood protection throughout the Pajaro River watershed. Project understanding and support will be crucial to obtain the funding needed at all levels for the Soap Lake Floodplain Preservation Project to be successful. Furthermore, teaming with other local efforts to restore habitat, conserve riparian areas, and protect wildlife in the Soap Lake area can provide valuable relationships leading to funding through mechanisms other than those strictly for land and easement acquisition.

Local conservation organizations and agencies, such as the Santa Clara County Open Space Authority, Land Trust for Santa Clara County and the San Benito Agricultural Land Trust, are devoted to the protection of open space, agricultural lands, wildlife habitats, and natural resources lands. These organizations and agencies employ various land protection methods, such as the purchase of conservation easements and land in fee title, temporary acquisition and resale with deed restriction for open space, and land lease-back programs, to accomplish their goals.

Local conservation organizations, such as land trusts, are often less restricted than governmental agencies, and can respond quickly to immediate purchasing opportunities. Land trusts can also acquire land temporarily and subsequently transfer its ownership to other private and public conservation organizations. Furthermore, land trusts have real estate experience and often have completed strategic acquisition plans. Most land trusts are private, local, non-profit organizations that rely on private funding from membership contributions, corporate and foundation grants, as well as donations of property interests, to implement their acquisition and management programs. With their experience, land trusts can serve as a major force in the implementation of the Soap Lake Floodplain Preservation Project.

Other conservation organizations that could aid in the funding and acquisition process for Soap Lake are statewide organizations, such as the California Rangeland Trust, or national organizations, such as the American Farmland Trust, Trust for Public Lands, and The Nature Conservancy.

Funding Sources

Five potential funding sources may be available for the implementation of the Soap Lake Floodplain Preservation Project. These sources include the following: (1) implementing partners, (2) government and private grants, (3) landowner incentive programs, (4) development-based funding/programs, and (5) local tax-based funding/programs. Landowners are also a critical part of the funding process, as they may contribute to the implementation process through donations of land (in fee title or conservation easement, or bargain sales of fee or easements). A combination of bargain sales, non-debt (such as grants) and debt-leveraged funding (such as bonds) are proposed since multiple funding sources and mechanisms may provide funding stability over the duration of this project¹.

Implementation Partners

Several conservation organizations and agencies have implemented land conservation within the Soap Lake area. These groups are Wildlands Inc., Santa Clara County Open Space Authority, Santa Clara Valley Water District, Land Trust for Santa Clara County, American Farmland Trust, The Nature Conservancy, San Benito Agricultural Land Trust, and the California Department of Fish and Game.

Wildlands Inc. is a private habitat development and land management company involved in mitigation and conservation banking. They recently purchased property in the Soap Lake area as a wetland mitigation bank where half of the land will be converted to wetlands. Wildlands Inc. has indicated they may be interested in future land acquisition in the Soap Lake area if the location, current land use and habitat fit their vision.

The Santa Clara County Open Space Authority (Open Space Authority) has indicated they may be able to fund \$500,000 annually for preservation of agricultural land, trails, and valuable habitat within the Santa Clara County portion of Soap Lake. The Open

¹ Whatcom County Purchase of Development Rights (PDR) Advisory Committee. August 2002. Recommendation of the Whatcom County Purchase of Development Rights Advisory Committee. www.landwatch.net/features/WashStatePlan.doc

Space Authority's goals are to preserve agricultural lands with prime and otherwise important soils, assisting in the Bay Area Ridge Trail program, and pursuing joint ventures with the Santa Clara Valley Water District (SCVWD).

The SCVWD, along with the Land Trust for Santa Clara County, owns a 480-acre property in fee title called the Carnadero Preserve (formerly the Wang property), located in the western portion of the Soap Lake area. This property satisfies the majority of the mitigation obligations of the Stream and Watershed Protection element of the SCVWD Stream Maintenance Program for the Pajaro Basin. The American Farmland Trust purchased a conservation easement on the portion of the Wang property owned by the Land Trust for Santa Clara County and is temporarily holding this easement until the land can be sold and the easement transferred to the Land Trust. The Land Trust of Santa Clara County, with the help of the American Farmland Trust, recently purchased a conservation easement over the 165-acre Mission Organics Home Ranch, and has secured approval of funding to purchase an easement over the 560-acre Taylor Ranch. All three of these properties (Wang, Mission Organics, and Taylor Ranch) are contiguous.

The Land Trust for Santa Clara County's primary mission is in the acquisition of conservation easements on agricultural lands, and they have the ability to pursue projects outside of Santa Clara County. As mentioned above, the Land Trust for Santa Clara County is currently working on conservation efforts with The Nature Conservancy, the San Benito Agricultural Land Trust, and others.

The California Department of Fish and Game (CDFG) holds a 200-acre conservation easement in the Soap Lake area near the confluence of the Upper Pajaro River and Miller's Canal. This easement, on what is known as the Helperin property, was purchased in 1990. When appropriate, the CDFG contributes funding to habitat preservation or land conversion to natural lands. The CDFG interest in acquiring additional lands in the Soap Lake area is unknown at this time (February 2005).

Public and Private Grants

Several grant programs exist that may be applicable to the funding needs of this project. Public and private funding mechanisms were investigated, and are listed in **Table 1**.

The information provided in Table 1 was referenced from program-specific websites and grant funding search websites, as well as conversations with funding program managers and coordinators. It is important to note that Table 1 is not all-inclusive of each funding program's requirements, minimum qualifications, and other pertinent dates and information. Therefore, further investigation and inquiry is recommended before any funding proposal is formally submitted. It is also important to note that for the purposes of this project, funding options were not explored with the U.S. Army Corps of Engineers because it does not fund land or conservation easement acquisition projects.

Most public grant programs require partnerships between the local interested agencies and/or non-profit groups (local project proponents) with State and/or Federal agencies. In fact, many such partnerships have successfully formed in the last few years.

Table 1. Grant Opportunities for the Soap Lake Floodplain Preservation Project

Funding Type	Administrating Agency	Contact Information	Name of Funding Mechanism	Program Description	Funding Information	Match Requirement	Eligible Funding Recipient(s)	Minimum Qualifications of Note	Comments
State	California Department of Conservation, Division of Land Resource Protection	Deniz Tuncer 916-445-9408	California Farmland Conservancy Program	This program seeks to encourage the long-term, private stewardship of agricultural lands through the voluntary use of agricultural conservation easements. This program provides grant funding for projects which use and support agricultural conservation easements for protection of agricultural lands. Funding can be for agricultural conservation easement acquisition, temporary fee title acquisition projects, land improvement projects, and policy. http://www.conservation.ca.gov/dlrp/CFCP/overview/index.htm	\$12 million in FY 2004/2005. No project funding cap, typical amount is \$50,000-\$1 million. This is an on-going program for a few more years through Prop. 40 funding.	5-10% match required, but average match is 50%	Local governments, resource conservation districts, non-profit organizations, other authorities that have conservation of farmland among their stated purpose	Funded organizations must have conservation of farmland as long-term commitment and among its stated purpose	The application submittal process is on-going – applications can be submitted anytime. This program has yet to have San Benito County as a participant.
State	California Department of Fish and Game, Wildlife Conservation Board	Tina Fabula 707-944-5500	Land Acquisition Program	This program funds real property acquisition or rights in real property for wildlife and fish. This funding mechanism has limited funds left. http://www.wcb.ca.gov/Pages/land_acquisition_program.htm	Funding is almost gone; therefore, limited funding is still available.	No match requirement	Local governments and non-profit organizations.	All acquisition activities are carried out in conjunction with the California Department of Fish and Game.	The application submittal process is on-going – applications can be submitted anytime.
State	California Department of Fish and Game, Wildlife Conservation Board	Scott Clemens 916-445-1072	California Riparian Habitat Conservation Program	The program mission is to develop coordinated conservation (acquisition and restoration) efforts to protect and restore the State's riparian ecosystems. http://www.wcb.ca.gov/Pages/california_riparian_habitat_conservation_program.htm	Funding will be reduced in FY 2005/2006. Typical funding per project is \$2,000 – \$2 million. Contract duration is 3 years, with hope of habitat establishment in that time.	No match requirement	Local governments, non-profit organizations	Must have a 25-year management plan for funding. Private landowner must sign off on contract to uphold plan.	Grants will focus strictly on restoration activities that are part of a watershed -level or regional planning effort. The application submittal process is on-going – applications can be submitted anytime. Submittal process takes minimum 6 months from submittal to Board approval. Board meets 4 times per year (February, May, August, and November). Funding is available immediately after Board approval meeting.

Funding Type	Administrating Agency	Contact Information	Name of Funding Mechanism	Program Description	Funding Information	Match Requirement	Eligible Funding Recipient(s)	Minimum Qualifications of Note	Comments
State	California Department of Fish and Game, Wildlife Conservation Board	John Donnelly, 916-445-8448	Rangeland, Grazing Land, and Grassland Protection Act of 2002	The purpose of this program is to protect California's rangeland, grazing land and grasslands through the use of conservation easements. Grants for rangeland, grazing land, and grasslands projects and land acquisition. http://www.wcb.ca.gov/RangelandProgramfiles/RangelandProgramRev3.htm	Project funding up to \$2 million Project proposals that contain funding partners may receive a higher priority than those applicants requesting 100 percent of the necessary funds to acquire the conservation easement.	Not specified, although encouraged.	Landowner, local governments, resource conservation agencies, joint power authorities, non-profit organizations	Projects must protect the integrity of the rangeland, grazing lands and grasslands. Applicants interested in obtaining an easement on more intensified agricultural areas are encouraged to contact the Department of Conservation (DOC), California Farmland Conservancy Program Landowner must disclose any known or suspected environmental conditions associated with the property	The application submittal process is on-going - applications can be submitted anytime. Applications should be submitted at least four months prior to a Board meeting. The Board meets 4 times per year, every Feb, May, August and November.
State	California Department of Water Resources and State Water Resources Control Board	Sudhakar Talanki, 916-341-5434	Integrated Regional Water Management Grant Program	The Integrated Regional Water Management (IRWM) Grant Program, funded by Proposition 50, Chapter 8, provides about \$380 million for competitive grants for projects to protect communities from drought, protect and improve water quality, and improves local water security by reducing dependence on imported water. Funding for the IRWM program is split between the Department of Water Resources and the State Water Resources Control Board. The agencies will utilize a joint application process for awarding grants. http://swrcb2.swrcb.ca.gov/funding/irwm_gp/index.html	Maximum grant amounts with required match percentage: \$500,000 for Planning Grants (with 25% local match), and, \$50 million for Implementation Grants (with 10% local match). Total program funds are committed as follows: First funding cycle, \$160 million (\$12 M for Planning and \$148 M for Implementation), and, Second funding cycle, \$220 million	25% for Planning Grants 10% for Implementation Grants	Public agencies and non-profit organizations. Other entities, such as privately owned water utilities regulated by Public Utilities Commission, may be part of the regional water management group responsible for applying for a grant and may perform work funded by the grant.	The associated IRWM Plan must meet all standards set forth in Appendix A of the Program Guidelines, and the Plan must be adopted by all partner agencies by January 1, 2007. All proposals for funding must meet standards and requirements found in the Program Guidelines (see website for information).	The Draft Planning and Step 1 Implementation Grant Proposal Solicitation Packages (PSP) are currently (Feb. 2005) being reviewed. Once the final PSPs are released, Planning and Step 1 Implementation Grant proposals can be submitted. Dates have yet to be determined.
State	California Office of the Secretary, Resources Agency	Elaine Berkhouse 916-653-5656	Proposition 50, California River Parkways Grant Program	Projects must provide public access or be a component of a larger parkway plan that provides public access. Program is currently under development. http://resources.ca.gov/bonds_prop50river_parkway.html	Funding for FY 2004/2005 is \$10 million Funding for FY 2005/2006 is expected to be \$30 million	Will require other contributions, not yet determined.	Unknown at this time.	Guidelines being developed. Multi-objective projects with multiple benefits to various stakeholders will be favorable.	Program funding guidelines are under development. Public comment on draft guidelines is expected to occur this spring. Requests for proposals may occur in May 2005. There exists a five-year horizon to complete the project once funding has been awarded.

Funding Type	Administrating Agency	Contact Information	Name of Funding Mechanism	Program Description	Funding Information	Match Requirement	Eligible Funding Recipient(s)	Minimum Qualifications of Note	Comments
State	California Office of the Secretary, Resources Agency	Elaine Berkhouse 916-653-5656	Environmental Enhancement and Mitigation Program	Program function is to mitigate the environmental impacts of modified or new public transportation facilities. Projects must have environmental clearance to be funded. http://resources.ca.gov/eem/	State Budget for FY 2005/2006 contains no funding for this program. Future funding is unknown. Project funding limit is \$250,000. Funding may exceed this amount for acquisition projects only. Total annual funding has been \$10 million each year.	No match required	Local, state, and federal governmental agencies, nonprofit organizations	Must have direct or indirect relationship with environmental impact of a new transportation facility or modifying an existing transportation facility. All projects must provide mitigation or enhancement of the transportation project for which they are related	State Budget for FY 2005/2006 contains no funding for this program. Future funding is unknown.
State	California Coastal Conservancy	Terri Nevins, 510-286-4161, or Nadine Hitchcock, 510-286-4176	Conservancy Program Grants	This program funds trails and other public access to and along the coast, natural resource protection and enhancement in the coastal zone or affecting coastal areas, restoration of coastal urban waterfronts, protection of coastal agricultural land, and resolution of land use conflicts. The Conservancy can fund pre-project feasibility studies, property acquisition, planning (for large areas or specific sites), and design, environmental review, constructions, monitoring, and, in limited circumstances, maintenance. The Board meets 10 times per year. http://www.coastalconservancy.ca.gov/	Only a small amount of funding is available/left this year. Can submit proposal now and be wait-listed for next fiscal year. Fund size: \$10,000 to several million, depending on the need, significance, and urgency of the project and availability of funds	Will require other contributions	Non-profit organizations who have preservation of land for educational, recreational, and open space opportunities among its principal purposes	California coastal watersheds	The application submittal process is on-going - applications can be submitted anytime.
Federal	USDA Natural Resource Conservation Service	NRCS California State Office, 530.792.5600; Jim Kosis, California Program Manager, 530-792-5605 Denise C. Coleman, National FRPP Manager, 202-720-3527	Farm and Ranch Lands Protection Program	The Farm and Ranch Land Protection Program (FRPP) provides matching funds to help purchase development rights to keep productive farm and rangeland in agricultural uses. Working through existing programs, USDA partners with State, tribal or local governments and non-governmental organizations to acquire conservation easements or other interests in land from landowners. USDA provides up to 50 percent of the fair market easement value. http://www.nrcs.usda.gov/programs/frpp/	Total program funding for 2005 is \$112 million. No maximum funding cap per project.	Two options - 50% of purchase price, or 25% of market value of easement	State, tribal, or local governments and non-governmental organizations	Private land owners must participate through eligible entity. Eligible land is prime, unique, statewide, or locally import soils, historical or archeological resources, subject to pending offer, etc. Landowner income from farming production must be less than \$2.5 million per year.	This program will rarely fund projects/acquisition where flooding is to occur. Flooding will prohibit farming activities for that affected period of time, so this is not looked on favorably. Application deadline for this year is April 5, 2005.

Funding Type	Administrating Agency	Contact Information	Name of Funding Mechanism	Program Description	Funding Information	Match Requirement	Eligible Funding Recipient(s)	Minimum Qualifications of Note	Comments
Federal	USDA Natural Resource Conservation Service	Helen Flach, Assistant State Conservationist, 530-792-5602; or Jon Gustafson, 530-792-5602 Floyd Wood, National Program Manager, 202-720-0242;	Grasslands Reserve Program	The Grassland Reserve Program (GRP) is a voluntary program offering landowners the opportunity to protect, restore, and enhance grasslands on their property. Section 2401 of the Farm Security and Rural Investment Act of 2002 (Pub. L. 107-171) amended the Food Security Act of 1985 to authorize this program. The Natural Resources Conservation Service, Farm Service Agency and Forest Service are coordinating implementation of GRP, which helps landowners restore and protect grassland, rangeland, pastureland, shrubland and certain other lands and provides assistance for rehabilitating grasslands. The program will conserve vulnerable grasslands from conversion to cropland or other uses and conserve valuable grasslands by helping maintain viable ranching operations. http://www.nrcs.usda.gov/programs/GRP/	National program cap is \$100 million for life of the program, and California has requested \$72 million for approved projects (may not be funded). Unknown when funding will come through, anticipated to be March 2005. California requested funding in September 2004, but has yet to be funded. Congress has yet to authorize funding. No funding limit per project.	No match required	Private Landowner	Lands may be used for haying and grazing	The application submittal process is on-going – applications can be submitted anytime.
Federal	USDA Natural Resource Conservation Service	California State Program Office, Walter Sykes, 530-792-5672, or Luana Kiger 530-792-5661 National Program, 202-720-8770	Small Watershed Program (Also known as the Watershed Protection and Flood Prevention Program)	The USDA's Small Watershed Program assists local organizations in conducting watershed surveys and investigations, and in planning and installing structural and land treatment measures for watershed protection and flood prevention. The Small Watershed Program in California has been used primarily for flood control, agricultural water management, and watershed protection work. There are 30 completed watershed projects in California and 15 operational projects. About 30 watersheds are currently receiving technical assistance for local planning activities. In fiscal year 2002, California received PL83-566 annual appropriations of \$950,000 for watershed planning, \$1,390,000 for technical assistance, and \$3,351,136 for installing practices. http://www.nrcs.usda.gov/programs/watershed/	This program is severely underfunded. Backlog of \$1.5 billion for projects to be funded.	Match depends on components of project	Local governments, non-profit	Watershed must be < 250,000 acres At least 20% of the benefits of any project must be directly related to agriculture, including rural communities. Cost/benefit analyses must be conducted and the ratio found appropriate before funding will be approved. The National Economic Development (NED) alternative must be identified. If different alternative is chosen, NRCS would be limited to funding the amount that the NED alternative would require.	The Soap Lake project would not qualify for this funding mechanism since the watershed which drains to Soap Lake is approximately 500 sq. miles (about 300,000 acres), larger than the maximum drainage area allowed (250,000 acres or approximately 390 square miles). The application submittal process is on-going – applications can be submitted anytime.

Funding Type	Administrating Agency	Contact Information	Name of Funding Mechanism	Program Description	Funding Information	Match Requirement	Eligible Funding Recipient(s)	Minimum Qualifications of Note	Comments
Federal	Environmental Protection Agency	Region IX Coordinator, Sam Ziegler, 415-972-3399; ziegler.sam@epa.gov . National Program, Carol Peterson 202-566-1304	Targeted Watershed Grants Program	<p>The Targeted Watersheds Grant Program is a relatively new EPA program designed to encourage successful community-based approaches and management techniques to protect and restore the nation's waters. The watershed organizations receiving grants this year exhibited strong partnerships with a wide variety of support; creative, socio-economic approaches to water restoration and protection; and explicit monitoring and environmentally-based performance measures.</p> <p>The Targeted Watershed Grants Program (formerly known as the Watershed Initiative) is a competitive grant program to encourage the protection and restoration of the country's water resources. Funds are for grants to support promising watershed-based approaches to improving water quality. Under the Watershed Initiative, EPA will advance the successes of watershed partnerships that have performed all of the necessary assessments and are ready to implement on-the-ground restoration activities.</p> <p>http://www.epa.gov/owow/watershed/initiative/2004/2004factsheet.html</p>	<p>FY 2005 funding is \$10 million.</p> <p>Average project funding amount is \$700,000 - \$800,000.</p>	25% non-federal match (cash or in-kind goods and services accepted)	Local governments, non-profit, watershed group, educational institutions, water and wastewater utilities, state and territorial agency, tribal agency	<p>Requires Governor's nomination</p> <p>Must have a biological or species monitoring component to show improvement over 3 years</p> <p>Water resources/watershed preservation, water quality improvement, ecosystem and landuse health projects</p>	<p>RFP date is expected to be mid-February 2005.</p> <p>Application deadline is 90 days after the RFP.</p> <p>Grants go through the Regional Program office.</p>

Funding Type	Administrating Agency	Contact Information	Name of Funding Mechanism	Program Description	Funding Information	Match Requirement	Eligible Funding Recipient(s)	Minimum Qualifications of Note	Comments
Federal	Federal Emergency Management Agency	California Office of Emergency Services, Ken Leap 916-845-8174 Marcia Ranchler, John Rowden, 916-845-8150 National Program Office 202-646-4621	Pre-Disaster Mitigation Program - Mitigation Grants Program	The Pre-Disaster Mitigation (PDM) program funding is provided through the National Pre-Disaster Mitigation Fund to assist States and local governments (to include Indian Tribal governments) in implementing cost-effective hazard mitigation activities that complement a comprehensive mitigation program. All Applicants and Sub-applicants must be participating in the National Flood Insurance Program (NFIP) if they have been identified through the NFIP as having a Special Flood Hazard Area (a Flood Hazard Boundary Map (FHBM) or Flood Insurance Rate Map (FIRM) has been issued). In addition, the Applicant/Sub-applicant must not be withdrawn, suspended, or on probation from the NFIP. http://www.fema.gov/fima/pdm.shtm	\$3 million cap on Federal share per project, not to exceed 3 years. Approximately \$255 million is available for competitive grants, technical assistance, and program support for the Fiscal Year 2005 PDM program. As PDM funds are available until expended, this amount is comprised of approximately \$13 million FY 2003 funds, approximately \$144.6 million FY 2004 funds, and approximately \$97 million FY 2005 funds. PDM grants are to be awarded on a competitive basis and without reference to state allocations, quotas, or other formula-based allocation of funds. The Fiscal Year 2005 PDM program guidance documents provide information and guidance on implementing the PDM program in Fiscal Year 2005, including program requirements, eligibility and grants management.	25% non-Federal funds Impoverished communities are eligible for up to 90% Federal cost-share.	NFIP communities	State Emergency Management Agency can apply, and sub applicant can receive funding. Must be NFIP participating communities. As of November 1, 2004, states and Indian tribal governments that choose to apply directly to FEMA must have an approved mitigation plan to be eligible to receive project grant funding under the PDM program. In addition, as of November 1, 2003, local governments, Indian tribal governments applying as Sub-applicants, and universities must have a FEMA-approved mitigation plan to be eligible to receive project grant funding under the PDM program. PDM planning grants will continue to be available to states, Indian tribes, local governments, and universities that do not have a FEMA-approved Mitigation Plan to enable them to meet the planning requirements. 44 CFR Part 201, Hazard Mitigation Planning, establishes requirements for state, tribal, and local hazard mitigation planning. Please see FEMA's planning web site: http://www.fema.gov/fima/planning.shtm	The application period was open as of Dec. 15, 2004. Application deadline for applications to be submitted to the FEMA Regional Director has been extended to March 14, 2005, at 11:59 p.m. EST.
Federal	Department of Interior, US Fish and Wildlife Service	CA Program Manager, Debra Schlafmann 916-414-6446, or Mary Root, Ventura Office, 805-644-1766 Martha Naley, National Program 703.358.2201	Coastal Program	This program conserves fish and wildlife and their habitats to support healthy coastal ecosystems. Effort and focus is placed on bays, estuaries, and watersheds around the U.S. coastline. Financial assistance is provided on a competitive basis to individuals, organizations, Tribes, and agencies interested in restoring wildlife habitat. http://www.fws.gov/cep/cepcode.html	Funding for 2005 is \$11.6 million nationwide.	50%	Non-profit individuals, organizations, Tribes, Federal, State, local agencies	A State resources agency must be the applicant for funding	Four program goals: (1) Serve coastal communities, (2) Conserve pristine coastal habitats, (3) Restore degraded coastal wetland, upland, and stream habitats, and (4) Focus resources through conservation alliances. Prospective applicants should contact the coordinators for each Coastal Program office (Ventura office for Pajaro River Watershed).

Funding Type	Administrating Agency	Contact Information	Name of Funding Mechanism	Program Description	Funding Information	Match Requirement	Eligible Funding Recipient(s)	Minimum Qualifications of Note	Comments
Federal	Department of Interior, US Fish and Wildlife Service	Don Morgan 703.358.2061	Private Stewardship Grants Program	This program provides grants and other assistance on a competitive basis to individuals and groups engaged in local, private, and voluntary conservation efforts that benefit federally listed, proposed, or candidate species, or other at-risk species. http://endangered.fws.gov/grants/private_stewardship/index.html	\$6.5 million nationally (No funding for land acquisition; funding only conservation efforts on behalf of at-risk or listed species.) Project funding cap of \$300,000	10%	Landowner, Business, Nonprofit, Local Government		They do NOT fund land or easement acquisition projects. Annual application deadline is usually in March.
Federal	Department of Interior, US Fish and Wildlife Service	703.358.2156	Landowner Incentive Program (Non-Tribal)	This program offers competitive matching grants to States to establish or supplement landowner incentive programs. Includes conservation easement acquisition	No state may receive > 5% of total funds available FY 2005 program funding total is \$20 million	25% non-federal match (cash and in-kind services are accepted)	Landowner, Business, Nonprofit, Local Government, etc.	Only the lead State Fish and Wildlife Service may apply for funding on behalf of third party.	Application deadline is typically 60 days after RFP (usually in late summer or early fall).
Private	David and Lucile Packard Foundation	Main Number, 650-948-7658; Silvia Troost 916-442-4880 stroost@resourceslawgroup.org	Conservation and Science Program	One focus of the foundation is their support of Conservation and Science. The foundation also has a special focus on the Northern California counties of San Mateo, Santa Clara, Santa Cruz, and Monterey. The foundation also supports the Monterey Bay Aquarium Research Institute. www.packard.org	\$200 million for grant making in 2005	Local contributions are usually involved.	Tax exempt, charitable organizations	Support vision of Foundation	Initial inquiry letter can be sent anytime. If interested, the foundation will ask for a proposal.
Private	William and Flora Hewlett Foundation	Anne Atkinson 650-234-4500	Protecting Western Lands - Public Finance for Land Conservation	Some of the most spectacular and ecologically significant lands needing protection in the West belong to ranchers and other private interests. While land acquisitions are perhaps the most permanent ways to protect private land from development, the philanthropic leverage of this type of investment can be small. An encouraging recent trend has been the development of public policies encouraging and financing conservation. We will continue to support efforts to generate public dollars for the protection of critical natural resources. http://www.hewlett.org/Programs/Environment/West/WestCriteria.htm	Unknown	Local contributions are usually involved.	Tax exempt, charitable organizations	Support vision of Foundation	They do not support land acquisition, conservation easements, and watershed or habitat restoration. The Foundation will support public finance initiatives on a larger scale to influence government decisions as related to the environment.
Private	Bella Vista Foundation	415-561-6540	Bella Vista Foundation, Environmental Restoration Grants	The foundation is focused on grant making for restoration of land, streams, wetlands, and habitat. They fund restoration activities, as well as the acquisition of land for purposes of preservation and restoration. They will fund organizations that own land temporarily or long term. www.pfs-llc.net	Average project funding \$20,000 - \$175,000	Local contributions are usually involved.	Tax exempt, charitable organizations	Support vision of Foundation	Application deadline is January 30 or June 15, annually.

Funding Type	Administrating Agency	Contact Information	Name of Funding Mechanism	Program Description	Funding Information	Match Requirement	Eligible Funding Recipient(s)	Minimum Qualifications of Note	Comments
Private	Resources Legacy Fund Foundation	Amanda Bohl 916-442-4880; Main Number 916-442-5057	Preserving Wild California	This program preserves significant elements of California's wildlands and ensures their permanent protection by investing in systematic acquisitions of land and fostering supportive policies, organizations, and constituencies. The foundation seeks to fund organizations working towards its long-term conservation goals for California's wildlands. www.resourceslegacyfund.org	Average project funding \$50,000 - \$1.3 million	Local contributions are usually involved.	Tax exempt, charitable organizations	Support vision of Foundation	Initial inquiry letter can be sent anytime. If interested, the foundation will ask for a proposal.
Private	Columbia Foundation	Henry Holmes 415-561-6880	Sustainable Communities and Economics	This program supports the promotion of sustainable food systems that work toward: secure livelihood for farmers and farm workers; protection of natural resources and biodiversity; the viability of marine ecosystems and fisheries; protection of public and environmental health; access to affordable, nutritious food from local and regional sources to meet the needs of people of differing cultures and incomes; and creation of thriving regional food economies. http://www.columbia.org/	\$25,000-\$100,000 per year for maximum of three years with one grant application	Local contributions are usually involved.	Tax exempt, charitable organizations	Support vision of Foundation	Annual deadline is August 1, and funding decisions arrive in late December.

Landowner-Incentive Programs

Two landowner-incentive programs exist for the purposes of land conservation. They are the Federal Conservation Reserve Program and the State of California Land Conservation (Williamson) Act Program. The description of each program follows.

- Federal Conservation Reserve Program – This federal program is administered by the USDA Natural Resources Conservation Service (NRCS). This program provides annual rental payments and cost-share assistance to private landowners for the conversion of highly erodible cropland or other environmentally sensitive acreage to vegetative cover, such as tame or native grasses, wildlife plantings, trees, filter strips, or riparian buffers. Contract duration for this program is 10-15 years. This program only allows the planting of long-term, resource-conserving covers to improve the quality of water, control soil erosion, and enhance wildlife habitat. According to local Farm Service representatives, the rental payments for this program in the Central California area are too low (\$25-\$50 per acre) to be a conservation incentive for the agricultural community.
- California Land Conservation (Williamson) Act Program – This program is administered by the California Department of Conservation, Division of Land Resource Protection. This program utilizes 10-20 year contract agreements that provide agricultural landowners with 20-75 % savings in property tax liability each year for their voluntary restriction of their land to agricultural and open space uses. Only land located within an agricultural preserve is eligible. Both Santa Clara and San Benito counties are “Williamson Act” counties, whereby their Board of Supervisors has adopted resolutions for agricultural preserves. The Soap Lake Floodplain Preservation Project is mostly within designated agricultural preserve area. Within Santa Clara County, 43% of the land area of the county (more than 362,704 acres) is under Williamson Act contracts². As of 2004, greater than two-thirds of San Benito County agricultural lands are also under contract with the Land Conservation Act Program.

Development-Based Funding³

Development-based fees can provide funding for open space conservation and acquisition. The associated fees must demonstrate a clear nexus between the fee and its use. This type of funding is subject to specific state and federal regulations and the legality of the fees should be fully explored in relation to the participating jurisdictions.

² Perez, P. Clerk of the Board of Supervisors, Santa Clara County, Williamson Act.
<http://www.scvmed.org/channel/0%2C4770%2Cchid%253D116374%2526sid%253D11012%2C00.html>.
January 2005.

³ Descriptions and text for the following two sections, development-based funding and local tax-based funding, rely heavily on two documents: (1) June 1999 memorandum prepared by the Contra Costa Community Development Department, titled “Options for Funding the Acquisition and Protection of Open Space and Agricultural Land in Contra Costa County”, and (2) November 2003 technical memorandum prepared by Economic and Planning Systems, titled “Preliminary HCP/NCCP Funding Analysis, Potential Funding Sources; EPS #11028.”

- Development Mitigation Fees – Fees are charged to developers to fund open space and land preservation projects throughout a jurisdiction. These funds could be used to conserve and acquire lands for preservation, conservation, and habitat.
- Developer Land Dedications – Developers could be required to acquire lands identified for conservation and must ensure their preservation in perpetuity, in order to obtain approval for developing land elsewhere in the jurisdiction.

Local Tax-Based Funding

In addition to grants and developer fees, local tax-based funding may be a required funding source. It validates local support and reveals a link between project costs and those who will directly benefit from the project.

The development of such a funding source can be challenging since two-thirds voter approval is required. In order to be successful, a long-term commitment to community outreach and education would be needed and may require a joint effort to fund other related public needs (trails and recreation, infrastructure, etc.). A list of potential local-tax based funding sources is provided below.

- General Obligation Bonds – Considered the most secure type of municipal bond, these are the least expensive bond local governments can issue. These municipal bonds are backed by the credit and "taxing power" of the issuing jurisdiction rather than the revenue from a given project. General obligation bonds are issued with the belief that a municipality will be able to repay its debt obligation through taxation or revenue from projects - no assets are used as collateral. The annual *ad valorem* property tax is set to a rate sufficient to pay the principal and interest due on the bonds annually. The term of these bonds cannot exceed 40 years. Bonds can raise large amounts of funding quickly, which would allow more immediate preservation of the agricultural lands, which could reduce project costs over time since development rights may become more costly over the duration of a preservation project⁴.
- Sales Tax Increase (Special Tax, Bond or Annual Revenue) – With a dedicated use, a new revenue source could be developed by raising sales taxes in the County with approval by two-thirds of the eligible voters. The tax increase could be shared among several special purposes. No market analysis has been conducted to investigate the possible impacts of an increased sales tax.
- Parcel Tax (Special Tax) – A new special tax on property could be imposed on a county-wide basis by two-thirds voter approval. The revenue would be used for open space and agricultural acquisitions. This tax could take many forms, such as a flat per parcel charge, an assessment only to certain classes of parcels, or the tax could be apportioned based on size or value of parcel improvements. The advantage of this tax type is its flexibility.

⁴ Whatcom County PDR Advisory Committee. August 2002

- Other Special Taxes that could leverage funding for conservation efforts follow:
 - Transient Occupancy Tax
 - Real Estate Transfer Tax
 - Business Tax
 - Utilities Tax

- Benefit Assessment Districts – This district would assess a fee on each parcel within the district proportionally to the benefit received by each parcel. Such districts can fund such conservation efforts as open space, habitat preservation and the associated maintenance efforts. These require a majority vote, but are complicated to administer.

Recommended Funding Tracks and Long-Term Schedule Impacts

Numerous funding tracks will need to be explored to obtain the funding required to implement the Soap Lake Floodplain Preservation Project. Initially, the Authority will need to determine the feasibility of each funding type suggested herein, and their associated legality and appropriateness for the project and for the jurisdictions in which the Authority represents. Once the eligible funding types have been identified, specific tracks can be developed based on the timeframe and schedules of each funding mechanism. Early investigations into the chosen funding mechanisms will reveal whether that specific track is a possible avenue for funding or will need to be abandoned.

On the local funding track, local agencies and their ability to support this project need to be identified, their funding quantified, and their commitment secured as soon as possible. This will ensure the reliability of a local cost share when pursuing grant funding. As seen in Table 1, most programs require a funding match to receive grant monies. Therefore, it is critical to secure these local sources. The ability of all local stakeholders to provide financial assistance must be explored. One potential local source identified here is the Santa Clara County Open Space Authority, which may have the ability to fund \$500,000 annually for parcels located in Santa Clara County. However, one stakeholder may not be able to sustain the local cost share over time; as a result, other local contributions will need to be secured to sustain the project, and associated match requirements, for the duration.

If it is determined that cumulatively, local stakeholder contributions will not be enough to support a local cost-share program, other local funding mechanisms mentioned herein, such as development-based and tax-based programs, should be explored. Since the development of these funding mechanisms may take several years and voter approval, the decision to pursue this type of funding would need to be made as soon as possible to begin the stakeholder outreach process.

Development-based funding will require compliance with regulations set forth by the State of California Government Code Section 66000⁵. This Code, enacted by State Assembly Bill 1600 in 1987, is also called the Mitigation Fee Act and it requires all public agencies to satisfy specific conditions when establishing, increasing, or imposing a fee as a condition of new development.⁶ In summary, the requirements are as follows⁷:

- Identify the purpose of the fee;
- Identify the use to which the fee will be put;
- Determine reasonable relationship between the fee's use and the type of development on which the fee is imposed;
- Demonstrate how there exists a reasonable relationship between the need for the public facility and the type of development project on which the fee is to be imposed;
- Discuss how there is a reasonable relationship between the amount of the fee and the cost of the public facility or portion of the public facility attributable to the development on which the fee is imposed.

The above items must be defined to demonstrate a clear nexus between the fee, the type(s) of development it is assessed to, and the purpose to which the funding will serve. It is recommended that a more in-depth investigation into this and other State and Federal legalities of development-based fees should be conducted to determine the relevancy to the Soap Lake Floodplain Preservation Project. Also, the existence of development-based fees currently enforced by each county needs to be explored.

On the State funding track, it is recommended that the Authority pursue the following five funding mechanisms (see program details in Table 1), which will be funded in the coming years and are the most applicable State grant funding mechanisms for the Soap Lake Floodplain Preservation Project:

- **California Farmland Conservancy Program** – This program has yet to have San Benito County as a participant;
- **Rangeland, Grazing Land, and Grassland Program**;
- **Integrated Regional Water Management Grant Program** – Funding could be substantial if project is part of an integrated regional strategy;
- **Conservancy Program Grants** – Funding available for coastal watersheds; and,
- **California River Parkways Grant Program** – Program guidelines currently under development.

Other State programs outlined in Table 1 that are not recommended as a funding source for the Soap Lake Floodplain Preservation Project are listed below:

- Land Acquisition Program – Funding is almost gone;

⁵ FindLaw.2005.Government Code Section 66000-66008. Accessed March 2005.
<http://caselaw.lp.findlaw.com/cacodes/gov/66000-66008.html>

⁶ David Taussig & Associates, Inc. July 2003. Western Riverside County Multiple Species Habitat Conservation Plan, Final Mitigation Fee Nexus Report. Accessed March 2005.
http://www.rcip.org/mshcpdocs/nexusreport/ES_4.pdf

⁷ David Taussig & Associates, Inc., 2003

- Environmental Enhancement and Mitigation Program – No funding was allocated for this program in FY 2005/2006. Future funding is unknown; and,
- California Riparian Habitat Conservation Program – Grants strictly focus on acquisition with restoration activities, which are currently not part of the Soap Lake Floodplain Preservation Project.

On the Federal funding track, it is recommended that the Authority pursue the following four funding mechanisms (see details in Table 1), which will be funded in the coming years and are the most applicable Federal grant funding mechanisms for the Soap Lake Floodplain Preservation Project:

- **Farm and Ranch Lands Protection Program** – This program supports conservation easement acquisition. However, occasional flooding may be a disadvantage to receive funding. This needs to be explored further.
- **Targeted Watershed Grants Program** – State governor must provide nomination of project to the EPA.
- **Pre-Disaster Mitigation Grants Program** – Funding applicant must be the State Emergency Management Agency. Sub applicants must be NFIP participating communities with FEMA-approved hazard mitigation plans.
- **Coastal Program** – This program will fund coastal watersheds. A State resource agency must be the primary applicant.

Other Federal programs outlined in Table 1 that are not recommended as a funding source for the Soap Lake Floodplain Preservation Project are listed below:

- Grasslands Reserve Program – No funding is available.
- Small Watershed Program – Soap Lake watershed area exceeds maximum watershed size allowed for this funding program.
- Private Stewardship Grants Program – No funding available for land acquisition, only provides funding for conservation efforts on behalf of species.
- Landowner Incentive Program – Funding provided to States to establish or supplement their own landowner incentive programs.

Four of the five private grant-making organizations identified in Table 1 should be explored as to their interest in partnering in the Soap Lake Floodplain Preservation Project. These are the Packard Foundation, Bella Vista Foundation, Resources Legacy Fund Foundation (Preserving Wild California), and Columbia Foundation. (The Hewlett Foundation is not recommended as a funding track as they do not support conservation easement and land acquisition.) These organizations often choose to coordinate their investment activities with other land trusts operating in the area. Grants range from smaller planning funds to multi-million dollar project funding. Therefore, private grant-making should be a funding track explored congruently with the many other tracks identified in this TM.

The ability to obtain project funding sooner rather than later will have a significant impact on the long-term costs and acquisition schedule of this project. With this in mind, more immediate funding types, such as debt-leveraged bonds, can provide faster acquisition of farmlands, which in turn, could lessen the impact of rising costs for

development rights⁸. Furthermore, conservation easement negotiations and transactions take time; therefore, it is crucial to the long-term schedule of the project that a significant portion of the desired funding is secured early on.

Payment Options⁹

Within the acquisition process, a variety of payment options could be utilized to make the needed purchases from the agricultural community. The various payment options described below may be attractive to landowners for tax purposes and may utilize and expand the funds available for this land and easement acquisition project.

- Lump Sum – Payment is received in full for the easement or land value.
- Installment Sale – Payment is made over a period of time, usually occurring over multiple tax years. If seller-financed, the County may agree to pay the owner tax-exempt interest payments on the principal of the development rights. This payment option can reduce the amount of acquisition funds needed upfront and can have significant tax benefits and deferrals accrued to the landowner.
- Securitized Installment Purchase Agreement – This payment option is similar to the general installment sale except that the principal is due at the end of the financing term. Associated interest payments are tax exempt and may also defer capital gains taxes for the willing seller.
- Donation and/or Bargain Sale – A landowner may donate development rights or sell these rights at a cost less than the appraised market value, which is referred to as a “bargain sale”. In either case, a landowner may receive a charitable gift deduction.
- Like-Kind Exchange – This is an exchange of similar investment assets, on which a deferral of capital gain may be taken. The landowner may use the proceeds from a sale and roll them into other qualifying real estate.

Conclusions

A combination of non-debt and debt-leveraged funding should be considered for this project since multiple funding sources and mechanisms can provide stability over time. This combination will most likely include local stakeholder contributions, public and private grants, land-owner incentive programs, developer mitigation fees, and local tax-based funding programs.

Of the 19 grant funding mechanisms explored in this TM, five State and four Federal funding mechanisms are recommended for pursuit in the implementation of the Soap Lake Floodplain Preservation Project. Four of the five private funding programs described in Table 1 are recommended for funding pursuit.

⁸ Whatcom County PDR Advisory Committee. August 2002

⁹ This section relies heavily on Whatcom County PDR Advisory Committee, August 2002; and MSN Money Central Glossary, <http://moneycentral.msn.com/taxes/glossary/glossary.asp>.

It is also recommended that the State of California Land Conservation (Williamson) Act Program be utilized for those parcels where current funding cannot support immediate purchase of an easement or land in fee title. In this event, the land-owner incentive program could provide compensation to the landowner for conservation in the interim.

For land and easement acquisition, the Authority may have several payment options available that may provide tax incentives or deductions for landowners. These payment options include lump sum, installment sale, securitized installment purchase agreement, donation and/or bargain sale, and like-kind exchange.

Project success will depend on relationships with local, State, and Federal representatives, as well as grant funding agencies and their regional representatives. As proponents for the implementation project, they can advocate the necessity of the Soap Lake Floodplain Preservation Project to the various councils, boards, and appropriations committees who determine funding allocations. To aid in the funding effort, land trust entities could provide real estate guidance to the Authority as it moves through the land and easement acquisition phases of project implementation.

References

Contra Costa Community Development Department. June 1999. Options for Funding the Acquisition and Protection of Open Space and Agricultural Land in Contra Costa County. <http://www.co.contra-costa.ca.us/depart/cd/water/OS/osfundingmethods.pdf>. Accessed January/February 2005.

David Taussig & Associates, Inc. July 2003. Western Riverside County Multiple Species Habitat Conservation Plan, Final Mitigation Fee Nexus Report. Accessed March 2005. http://www.rcip.org/mshcpdocs/nexusreport/ES_4.pdf

Economic and Planning Systems. November 2003. Preliminary HCP/NCCP Funding Analysis, Technical Memorandum: Potential Funding Sources; EPS #11028. http://www.cocohcp.org/draft-hcp/Appendix_H.pdf. Accessed January/February 2005.

FindLaw. 2005. Government Code Section 66000-66008. Accessed March 2005. <http://caselaw.lp.findlaw.com/cacodes/gov/66000-66008.html>

MSN Money Central Glossary, <http://moneycentral.msn.com/taxes/glossary/glossary.asp>. Accessed January/February 2005.

Perez, P. Clerk of the Board of Supervisors, Santa Clara County, Williamson Act. <http://www.scvmed.org/channel/0%2C4770%2Cchid%253D116374%2526sid%253D11012%2C00.html>. Accessed January 2005.

Whatcom County Purchase of Development Rights (PDR) Advisory Committee. August 2002. Recommendation of the Whatcom County Purchase of Development Rights Advisory Committee. www.landwatch.net/features/WashStatePlan.doc. Accessed January/February 2005.

Websites for Table 1 Funding Mechanisms

http://endangered.fws.gov/grants/private_stewardship/index.html

http://resources.ca.gov/bonds_prop50riverparkway.html

<http://resources.ca.gov/eem/>

<http://swrcb2.swrcb.ca.gov/funding/irwmgp/index.html>

www.coastalconservancy.ca.gov/

www.columbia.org/

www.conservation.ca.gov/dlrp/CFCP/overview/index.htm

www.epa.gov/owow/watershed/initiative/2004/2004factsheet.html

www.fema.gov/fima/pdm.shtm

www.fws.gov/cep/cepcode.html

www.hewlett.org/Programs/Environment/West/WestCriteria.htm

www.nrcs.usda.gov/programs/frpp/

www.nrcs.usda.gov/programs/GRP/

www.nrcs.usda.gov/programs/watershed/

www.wcb.ca.gov/Pages/california_riparian_habitat_conservation_program.htm

www.wcb.ca.gov/Pages/land_acquisition_program.htm

www.wcb.ca.gov/RangelandProgramfiles/RangelandProgramRev3.htm

www.packard.org

www.pfs-llc.net

www.resourceslegacyfund.org

www.columbia.org