


Anderson Purisima Hills Conservation Easement Project


Consideration to Adopt a Resolution of Necessity

May 21, 2013

County Obligations

- ▶ County's effort to acquire a conservation easement complies with a 2010 Conditional Settlement Agreement with U.S. Fish & Wildlife Service.
 - ▶ Terms of Agreement:
 1. **Acquire** a conservation easement to protect the California Tiger Salamander (CTS).
 2. **Restore** the California Tiger Salamander habitat and pond.
 3. **Transfer** the conservation easement to an approved third party.
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Acquire Conservation Easement

1. Evaluated suitable CTS habitat and ponds.
 2. Identified Anderson property.
 3. Acquired Anderson Conservation Easement for \$240,000 on July 28, 2011.
 4. Anderson had two (2) years to subordinate any existing mortgages in order for the easement to become senior in title.
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Anderson Property





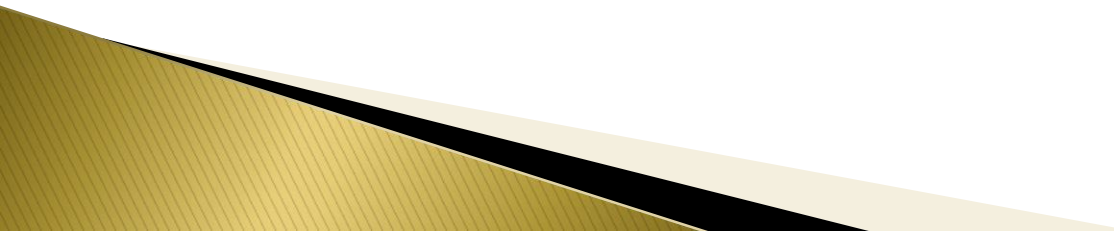
Conservation Easement

Anderson Property


Restoration Project

1. October 2012 – Commenced.
2. December 2012– Completed.
3. March 2013 – U.S. Federal Fish & Wildlife Services determined the CTS Pond Restoration was successfully conducted.


Transfer of Conservation Easement

1. Anderson was unsuccessful in making Conservation Easement superior in title.
 2. County's attempts to negotiate clear title to the easement were unsuccessful.
 3. Transfer to third party cannot occur due to outstanding superior mortgages.
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Current Circumstances

1. Due to outstanding superior mortgages, County easement has not been transferred.
 2. Second and third Deed of Trust holder filed a motion for foreclosure sale August 2012.
 3. Owner filed for bankruptcy August 2012.
 4. Foreclosure sale taken off calendar.
 5. Bankruptcy Court granted County relief from automatic stay.
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Threat of Foreclosure

1. Threat of foreclosure jeopardizes County's conservation easement.
 2. County's conservation easement would be extinguished upon foreclosure as a matter of law.
 3. U.S. Fish & Wildlife Service could determine that County is in violation of Agreement.
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Adopting Resolution of Necessity

1. County has retained eminent domain attorney.
 2. Eminent domain attorney advised on how to perfect title to its conservation easement by use of condemnation.
 3. Condemnation will preserve and protect County's title to conservation easement.
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Consequences of No Action Taken

1. Foreclosure sale will extinguish County's conservation easement.
 2. County will be unable to fulfill Conditional Settlement Agreement without Anderson Conservation Easement.
 3. Conditional Settlement Agreement expires September 10, 2013.
 4. U.S. Fish & Wildlife Service may find County in violation.
 5. If found in violation County may be unable to obtain future take permits required for CTS habitats.
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Recommended Actions

A. Conduct a hearing.

B. Find;

- a) the location of the property is not based primarily on a consideration of the lower cost of acquiring land in an agricultural preserve.
- b) there is no other land within or outside the preserve on which it is reasonably feasible to locate the public improvement.

C. Adopt the Resolution of Necessity to acquire a Conservation Easement.

