TOM DAVIS, VIRGINIA,
CHAIRMAN

DAN BURTON, INDIANA
CHRISTOPHER SHAYS, CONNECTICUT
ILEANA ROS-LEHTINEN, FLORIDA
JOHN M. McHUGH, NEW YORK
JOHN L. MICA, FLORIDA
MARK E. SOUDER, INDIANA
STEVEN C. LaTOURETTE, OHIO
DOUG OSE, CALIFORNIA
RON LEWIS, KENTUCKY
JO ANN DAVIS, VIRGINIA
TODD RUSSELL PLATTS, PENNSYLVANIA
CHRIS CANNON, UTAH
ADAM H. PUTNAM, FLORIDA
EDWARD L. SCHROCK, VIRGINIA
JOHN J. DUNCAN, JR., TENNESSEE
JOHN SULLIVAN, OKLAHOMA
NATHAN DEAL, GEORGIA
CANDICE MILLER, MICHIGAN
TIM MURPHY, PENNSYLVANIA
MICHAEL R. TURNER, OHIO
JOHN R. CARTER, TEXAS
WILLIAM J. JANKLOW, SOUTH DAKOTA
MARSHA BLACKBURN, TENNESSEE

ONE HUNDRED EIGHTH CONGRESS

# Congress of the United States

## House of Representatives

COMMITTEE ON GOVERNMENT REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515–6143

MAJORITY (202) 225–5074
FACSIMILE (202) 225–3974
MINORITY (202) 225–5051
TTY (202) 225–6852

www.house.gov/reform

HENRY A. WAXMAN, CALIFORNIA,
RANKING MINORITY MEMBER

TOM LANTOS, CALIFORNIA
MAJOR R. OWENS, NEW YORK
EDOLPHUS TOWNS, NEW YORK
PAUL E. KANJORSKI, PENNSYLVANIA
CAROLYN B. MALONEY, NEW YORK
ELIJAH E. CUMMINGS, MARYLAND
DENNIS J. KUCINICH, OHIO
DANNY K. DAVIS, ILLINOIS
JOHN F. TIERNEY, MASSACHUSETTS
WM. LACY CLAY, MISSOURI
DIANE E. WATSON, CALIFORNIA
STEPHEN F. LYNCH, MASSACHUSETTS
CHRIS VAN HOLLEN, MARYLAND
LINDA T. SANCHEZ, CALIFORNIA
C.A. DUTCH RUPPERSBERGER, MARYLAND
ELEANOR HOLMES NORTON, DISTRICT OF COLUMBIA
JIM COOPER, TENNESSEE
CHRIS BELL, TEXAS

BERNARD SANDERS, VERMONT,
INDEPENDENT

March 21, 2003

The Honorable Craig Manson
Assistant Secretary for Fish, Wildlife and Parks
Department of the Interior
1849 C Street, N.W.
Washington, DC 20240

Dear Mr. Manson:

I am writing regarding the Fish and Wildlife Service's (FWS) policy on conservation banks. Specifically, I am concerned about the position that the Sacramento office has taken on the use of conservation banks to ensure the continued survival of the endangered vernal pool tadpole shrimp (*Lepidurus packardi*) and the threatened vernal pool fairy shrimp (*Branchinecta lynchi*).

In a letter dated November 22, 2002, Jan C. Knight (Chief, Endangered Species Division of the Sacramento Fish and Wildlife Office) advised Tom Cavanaugh (Chief, Sacramento Office of the U.S. Army Corps of Engineers) that "compensation of habitats through purchasing credits at a conservation bank would be strongly discouraged because of the size and scope of the potential effects associated with the proposed project" (see attached).

Having served as the chief legal counsel of California's Department of Fish and Game, you are aware that conservation banks are beneficial to the environment and the economy for a number of reasons. Conservation banking offers an efficient and cost-effective means of ensuring species and habitat preservation while simultaneously providing development opportunities. The resulting private/public partnership not only helps to offset the problems associated with shrinking budget resources but also can serve as a major funding source for the creation of an ecosystem preserve under a regional conservation plan. Excluding larger projects from conservation banks limits the funding available for regional conservation plans. Such funding limitations will correspondingly limit the creation of endangered species habitat.

Given these benefits, the Sacramento office's opposition to the use of conservation banks for larger developments appears to be inhibiting the conservation of endangered species habitat. In addition, this policy appears to conflict with several of the fundamental principles set forth in the "State of California's Official Policy on Conservation Banks" and with policies established by the other California offices of the FWS.

Moreover, by discouraging large landowner and developer participation in conservation banking, the Sacramento office is effectively creating an incentive to develop smaller parcels of land, which, in turn, may result in a less comprehensive approach to preservation and greater habitat fragmentation. The result of this policy clearly contradicts the principle set forth in the California conservation bank policy which states that conservation banks provide a viable alternative to the current practice of requiring piecemeal mitigation for individual project impacts.

The Sacramento office's policy also conflicts with the policies of other California offices. For example, the joint memorandum issued by the Carlsbad Fish and Wildlife Office and the California Department of Fish and Game on January 24, 1996, entitled, "Supplemental Policy Regarding Conservation Banks Within the NCCP Area of Southern California," states, "The number of conservation banks that are established will be regulated by the 'free market' and willingness of landowners to participate, not by the wildlife agencies." Under this policy, landowners and developers desiring to purchase credits would create the "demand" component of the "free market." By restricting larger landowners and developers from conservation banking, the Sacramento office is unjustifiably regulating the market and opposing the prudent policy implemented by its counterparts.

Conservation banking is an effective and innovative program for concurrently preserving endangered species habitats and ensuring economic development. When agencies hinder the program with their policies, however, both the economy and the environment suffer.

Given implications of the FWS's policy on conservation banks, I would like to meet with you to discuss the issue at your earliest convenience.

Thank you for your attention to this request.

Sincerely,

Doug Ose
Chairman
Subcommittee on Energy Policy,
Natural Resources and Regulatory Affairs

Attachment

cc The Honorable Tom Davis
The Honorable John Tierney