

<p><b>TNBC</b></p> <p>The Natomas Basin Conservancy</p> <p>Web site: <a href="http://www.natomasbasin.org">www.natomasbasin.org</a></p>	<p><b>Regular Meeting of the Board of Directors</b></p>	<p><b>Upcoming Regular Meetings</b></p>	<p><i>t h e</i> <b>NATOMAS BASIN</b> <i>c o n s e r v a n c y</i></p> <p><b>August 1, 2012</b></p>
	<p>4:00 p.m.</p> <p>9055 East Levee Road Elverta, CA</p>	<ul style="list-style-type: none"> <li>• October 3</li> <li>• November 7</li> <li>• December 5</li> </ul>	

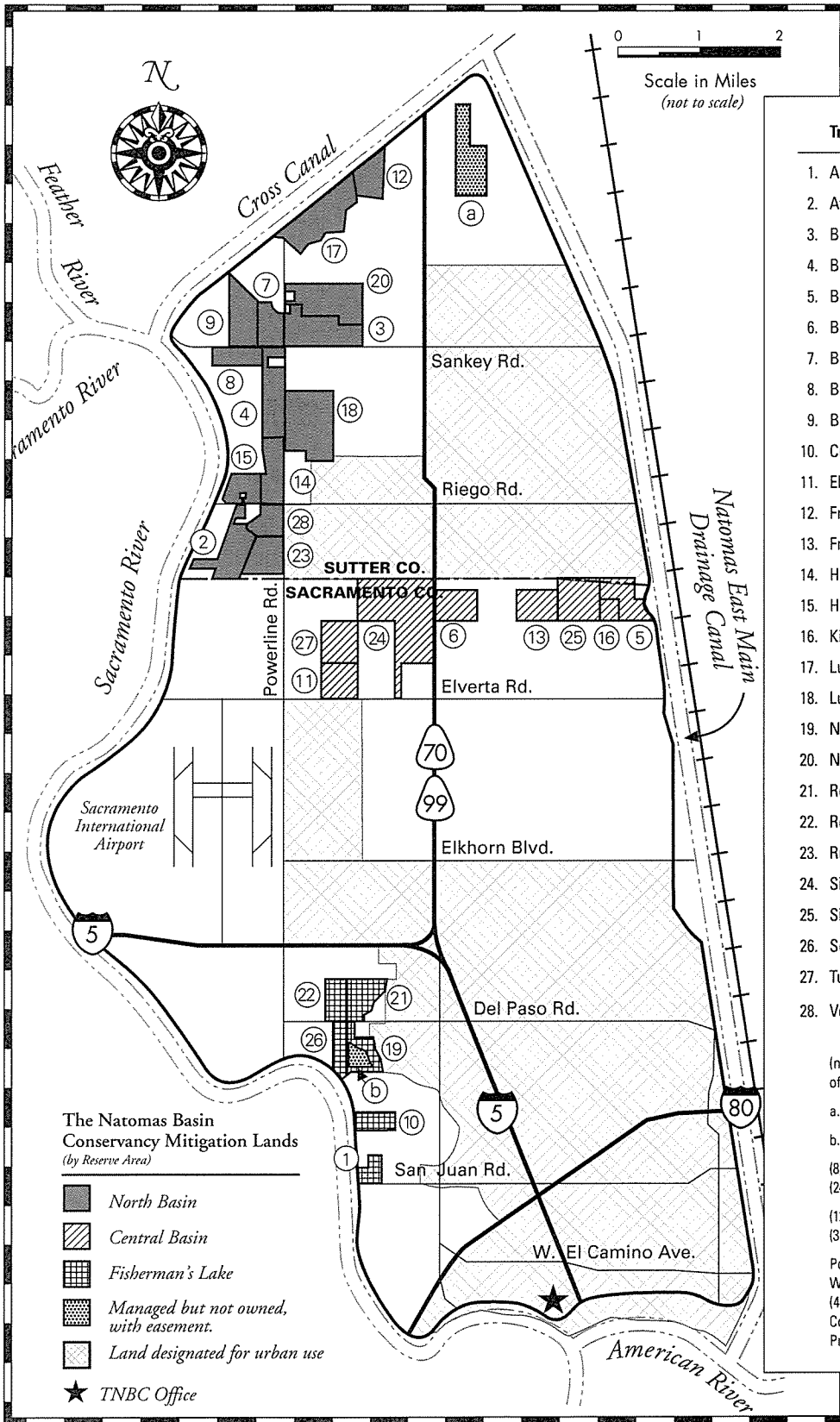
# Agenda



CALL TO ORDER

# 2012 BASE MAP

THE NATOMAS BASIN CONSERVANCY



Tract	Acq. Date	Acres
1. Alleghany (14)	11.07.02	50.26
2. Atkinson (16)	06.12.03	199.40
3. Bennett North (4)	05.17.99	226.68
4. Bennett South (5)	05.17.99	132.49
5. Betts (2)	04.05.99	138.99
6. Bianchi West (28)	11.07.06	110.16
7. Bolen North (23)	04.29.05	113.62
8. Bolen South (24)	04.29.05	102.38
9. Bolen West (26)	09.01.06	155.14
10. Cummings (15)	11.07.02	66.83
11. Elsie (29)	11.07.06	158.03
12. Frazer (9)	07.31.00	92.60
13. Frazer South (30)	11.07.06	110.37
14. Huffman East (19)	09.30.03	135.75
15. Huffman West (18)	09.30.03	157.85
16. Kismat (3)	04.16.99	40.46
17. Lucich North (6)	05.18.99	267.99
18. Lucich South (7)	05.18.99	351.89
19. Natomas Farms (11)	07.09.01	55.19
20. Nestor (27)	09.01.06	233.16
21. Rosa East (21)	03.23.05	106.28
22. Rosa Central (22)	03.23.05	100.02
23. Ruby Ranch (17)	06.23.03	91.08
24. Sills (13)	07.15.02	436.41
25. Silva (1)	01.07.99	159.20
26. Souza (10)	07.02.01	40.00
27. Tufts (20)	09.29.04	147.95
28. Vestal (25)	09.12.05	94.95

(n) number in parentheses represents chronological order of acquisition

a. Brookfield/NLIP (180.00 acres)

b. Natomas Farms/NLIP (41.27 acres)

(8) Brennan tract, acquired 6.15.00, exchanged 9.1.06. (242.38 acres)

(12) Ayala tract, acquired 2.20.02, exchanged 11.3.06. (317.37 acres)

Portions of the Atkinson tract (6.76 acres), the Huffman West tract (23.25 acres), and the Natomas Farms tract (41.27 acres) were sold to the Sacramento Area Flood Control Agency for the Natomas Levee Improvement Program (NLIP).

The Natomas Basin Conservancy Mitigation Lands (by Reserve Area)

- North Basin
- Central Basin
- Fisherman's Lake
- Managed but not owned, with easement.
- Land designated for urban use

★ TNBC Office

## *Agenda format and readings tips*

### • *Item organization*

This agenda is prepared in order to facilitate understanding of the Conservancy Board of Director's agenda packet. Each agenda item is numbered in the far left-hand column. Then, as the reader moves from left to right, more information is provided. Ultimately, the far right-hand column presents a discussion of the agenda item.

1	Call to Order	Call to Order of the Regular Meeting of the Board of Directors	Admin.	∅	○ The Board President will call the meeting to order if a quorum is present. Announcements by the Board President or Executive Director may be made at this time.
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### • *Exhibit symbols attendant with agenda item*


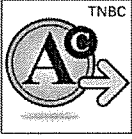



Agenda exhibit symbol in the "Pg." column	Definition
∅	There is no supplemental information that accompanies an agenda item.
①	There is more information in supplemental handouts.
2:21	Means that in agenda packet number 2, there will be supporting information on page 21.

### • *Staff agenda item recommendations symbols*

In the "Discussion" column, there are a series of symbols used, also in order to facilitate quick understanding. These indicate the status of staff recommendations.

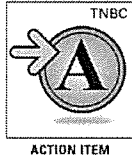
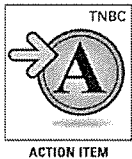
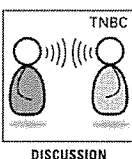
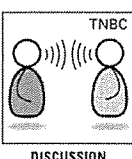
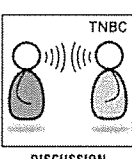
Agenda exhibit symbol in the "Pg." column	Definition
○	There is no staff recommendation on the matter.
⊕	Staff recommends approval.
●	Staff does not recommend approval.

<h1>TNBC</h1> <p>The Natomas Basin Conservancy</p> <p>Web site: www.natomasbasin.org</p>	<p><b>Regular Meeting of the Board of Directors</b></p>	<p><b>Upcoming Regular Meetings</b></p>	 <p><b>August 1, 2012</b></p>
	<p>4:00 p.m.</p> <p>9055 East Levee Road Elverta, CA</p>	<ul style="list-style-type: none"> <li>• October 3</li> <li>• November 7</li> <li>• December 5</li> </ul>	

#	Section	Item	Pg.	Discussion
1		Call to Order of the Regular Meeting of the Board of Directors	∅	○ The Board President will call the meeting to order if a quorum is present. Announcements by the Board President or Executive Director may be made at this time.
2		Approval of the Minutes	2.1	⊕ The Board President will request approval of the minutes of the Board of Directors meeting of June 3, 2012.
3		Renew agreement: legal services	2.7	⊕ After considerable discussion at the October 6, 2010 Board meeting, the Board authorized the Executive Director to enter into an agreement for Conservancy legal services provided by Ed Quinn of Best, Best & Krieger. The action was taken in light of the change made by Mr. Quinn in affiliation with a different law firm, in this case, the firm of Best, Best & Krieger. The agreement presented here requests the Board's authorization for the Conservancy's Executive Director to execute and deliver an agreement which continues the services of Ed Quinn of the firm Best, Best & Krieger as Conservancy legal counsel for a period of two years under the same general terms and conditions.
4		Appointment of Secretary of the Corporation due to vacancy	2.17	⊕ With Board member Paul Junker's resignation from the Board, the position of Secretary of the Corporation became vacant. The Board President will appoint a Secretary and request Board ratification.
5		Report back to the Board by legal counsel in the matter of responding to Sutter County	∅	⊕ The Board has asked that Conservancy legal counsel investigate the matter of Sutter County's request for the Conservancy's opinion as to whether a proposal to conduct soil mining on a property within the NBHCP's "Permit Area," if approved by Sutter County, would trigger payment of the HCP fee. Legal counsel will advise the Board as to its findings.

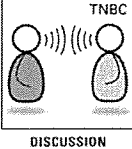
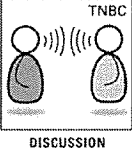
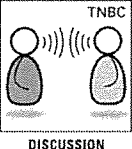
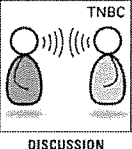
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		regarding its request for determination as to the applicability of the HCP fee to a soil mining operation		
6		Follow-up on introduction to the Board of a proposed program to accept contributions	3.1	<p>○ Staff shared with the Board plans to begin to facilitate contributions to the Conservancy via the Conservancy's web site. The concept, while still preliminary, would include having a portal on the Conservancy's web site similar to that used by The Nature Conservancy, an international organization that is prominent in the field. Others use a similar format to facilitate contributions.</p> <p>The initial phase of the proposal has the Conservancy in a passive fundraising posture for reasons staff shared with the Board. The Journal of Philanthropy recently reported a surge of fundraising on established non-profit web sites compared to historically more conventional means. Thoughtfully implemented, the concept could posture the Conservancy to yield revenue without interfering with its efforts to implement the HCPs, to not significantly raise the reported (to IRS) allocation of expenses to fundraising and away from programs, and to continue intact the Conservancy's tax exemption classification.</p> <p>At its May 2, 2012 meeting, the Board expressed interest in this proposal, and requested that staff check with appropriate parties, further develop the plan, and then report back. Staff will report to the Board its findings and request authorization to proceed.</p>
7		Donation Policy adoption	3.8	<p>○ Should the Board further the proposal to accept donations and contributions through the Conservancy's web site, staff has prepared a draft policy for the Board to consider. This is pursuant to the Board's request at its May 2, 2012 meeting that any such program have a policy recommendation with it.</p>
8		City of Sacramento report	∅	<p>○ Report from the City of Sacramento regarding HCP-related activity and other topics.</p>
9		Financial statement review	4.15	<p>○ A financial statement update will be provided for the period ended June 30, 2012 (unaudited).</p>
10		Greenbriar Habitat Conservation Plan	∅	<p>○ Staff will discuss with the Board the matter of recently-submitted Greenbriar Habitat Conservation Plan and seek Board members' reaction and guidance on steps going forward.</p>

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11		Riego/99 Interchange Project update	4.1	<p>○ Staff has previously discussed with the Board and laid out in its program of work filed with the Implementation Annual Report (IAR) that it has worked with proponents of the Riego Road/U.S. Highway 99 Interchange Project. Proponents include CalTrans, Sutter County and the Sutter Pointe development group.</p> <p>Since the project footprint lies within the NBHCP's "Permit Area," HCP fees will be assessed. Over the course of the past year, Conservancy staff has worked with the Project proponents to consider layering Clean Water Act (CWA) Section 404 mitigation over the NBHCP's Endangered Species Act mitigation. A lot of work by the Conservancy went into seeing if this was a possibility, and if so, how it might work.</p> <p>Staff will brief the Board on how this issue is being resolved.</p>
12		Assertion by U.S. Army Corps of Engineers that Natomas Basin rice agriculture constitutes land and water protected by the federal Clean Water Act.	Ø	<p>○ The Riego/99 Interchange Project has raised a new dynamic in development within the Natomas Basin. For the first time, the U.S. Army Corps of Engineers (USACE) has demanded that any project taking place in rice agriculture is subject to the federal Clean Water Act, Section 404, and requires appropriate mitigation. This means that the USACE requires mitigation. Wetlands mitigation is notoriously expensive, more expensive than NBHCP mitigation fees. There will also be very direct implications for the Conservancy, since it secures 404 permits for the creation, construction and maintenance of marsh projects.</p> <p>Staff will seek the Board's guidance on this matter. Does the Board agree that this move will have serious implications with respect to the implementation of the NBHCP? Would the Board like staff to engage an expert to help it assess this movement and where it is likely headed?</p>
13		BKS North Course Phase 2 channel maintenance project	Ø	<p>○ The Conservancy previously engaged the services of CalSierra Construction, Inc., to initiate work on Phase 2 of the BKS Tract North Course Channel Maintenance Project. All permits have been secured and work has commenced. Staff will brief the Board on progress achieved to date, as well as conduct an on-site inspection with Board members wishing to visit and inspect the work site.</p>
14		Update and discussion on the Conservancy's proposed preserve limited and controlled public access plan	4.8	<p>⊕ In previous meetings, the Board has discussed a plan to prepare one of the Conservancy's preserves for limited and controlled public access (a "pilot" project). The Conservancy has dedicated a great deal of work to seeing if this proposal could get approval from the Wildlife Agencies. The Conservancy's Board of Directors has been actively engaged in this process.</p> <p>In a recent letter to the Conservancy in response to our proposal, received June 18, 2012, the U.S. Fish and Wildlife Service:</p> <ul style="list-style-type: none"> <li>--ruled out public access being acceptable under the current Plan;</li> <li>--ruled out making a "minor amendment" to the</li> </ul>

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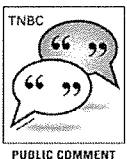
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			<p>City's HCP as a vehicle that would permit this, and --ruled out using the "major amendment" process to allow for public access.</p> <p>The letter states that a request to amend the HCP for the purposes of allowing public access,</p> <p>...would be treated as an original permit application, and would require the submittal of a revised HCP, a permit application form, and the preparation of an appropriate environmental review document in accordance with the National Environmental Policy Act/ California Environmental Quality Act...</p> <p>Since the City of Sacramento has invested millions of dollars in the preparation and legal defense of its HCP, applying for a new incidental take permit and state 2081 permit would be extraordinarily expensive. The City may decide that it is prohibitively expensive.</p> <p>Going forward, Conservancy staff sees the following range of possible actions with respect to any further efforts to open mitigation lands to the public (not presented in order of preference):</p> <ol style="list-style-type: none"> <li>1. <u>Accept the decision and do as suggested, file for a new permit.</u> On one hand, this would certainly give clarity to the issue of public access, and would be defensible. On the other, it is a very expensive, and potentially risky, option.</li> <li>2. <u>Appeal the decision.</u> Ask the U.S. Fish and Wildlife Service to reconsider its decision. This would have the benefit of assuring that the Service has fully considered its position at the appropriate level. The cost to accomplish this would be the investment of time and energy, and perhaps some damage to the Service's goodwill, for what seems a very long shot at success.</li> <li>3. <u>Build public access into the City's new HCPs.</u> Conservancy staff is aware that the City is working with the proposed Greenbriar development and the proposed Joint Vision development. The City may decide to insert a public access component in these HCPs. The upside here is that there would be written approval by the state and federal agencies that public access to mitigation lands is a permissible activity. On the "cost" side of the equation, based on the U.S. Fish and Wildlife Service's letter, expenses to development proponents would be raised, potentially considerably so. Knowing of the Sacramento City Council's sensitivity to even modest cost increases in HCP fees (as expressed in the February 21, 2012 Council meeting under the agenda item, "approval of the NBHCP fee for 2012"), Council members may object to the costs involved.</li> <li>4. <u>Supplemental funding could be used to acquire lands not otherwise placed into service as mitigation lands.</u> To support what the Conservancy had thought would be a need for supplemental funding for public access (e.g., non-NBHCP fee payer funds),</li> </ol>
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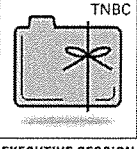
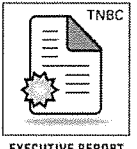
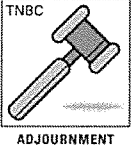
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				<p>the Conservancy's Board of Directors has begun working on a process to raise grant funds and contributions. Contributions received could be used to support a public access program, among other applications and uses. In this case, contributed funds could also be placed into an account used to pay for the acquisition of land for use in a public access program. Such use would not be in direct conflict with the City's incidental take permit. There would be no conflict with the NBHCP, no fee-payer funds would be used (avoiding resistance that would otherwise be sure to surface) and we'd have broad flexibility to establish public access programs which would be useful to the visiting public. On the downside, it could be said that the land acquisition would require acquisition of portions of the limited land available in the Basin for mitigation, and thus raise the costs of mitigation to NBHCP fee payers, both public and private.</p> <p>5. <u>Continue the status quo.</u> The Conservancy has never turned down a request from the public for access to the mitigation lands. Groups regularly visit the preserves. However, and very importantly, Conservancy staff believes it can assertively convince any potential challengers to this practice that it is compliant with the habitat conservation plan. The reasons are as follows:</p> <ul style="list-style-type: none"> <li>a.) The NBHCP's Plan Operator selects the preserve for visitation, and its selection is one that affords the least risk to the NBHCP's Covered Species,</li> <li>b.) Access is granted at a time and season that meets the same criteria,</li> <li>c.) in all cases, the group is personally escorted by either Conservancy staff (almost always) or at a minimum, a Conservancy-trained docent,</li> <li>d.) there is a certain educational or scientific purpose for these admissions, and recreational and related usage (most likely to adversely impact the Covered Species) are not permitted.</li> </ul> <p>The positive side to this option (#5) is that there is no cost to the City, truly interested public parties are accommodated, and the City's HCP continues to be implemented successfully with costs kept to a minimum. The downside is likely that preserves can never be as open as some may wish.</p> <p>This item simply advises the Board of progress on this project and seeks Board counsel on next steps, if any.</p>
15	 <p>TNBC PUBLIC COMMENT</p>	Public Comments	Ø	<p>○ Opportunity for members of the public to address the Conservancy's Board of Directors.</p>

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16		Executive Session – Real Estate	6	○ Executive Session for real estate is planned. Item: land acceptance for Riego/99 Interchange Project.
17		Executive Director's Report	5	○ Various matters for Board members' general information.
18		Adjournment	∅	○ Official adjournment of the meeting.

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