



Permitting Restoration Case Study Stock Pond Restoration & Permit Coordination

Alameda County, CA

Stock ponds provide important habitat for the California red-legged frog and the California tiger salamander, both of which are federally listed as threatened species. The California tiger salamander was also recently listed by the state. Historically, these species have resided in stream lagoons and natural ponds in California, but degradation of wetlands and riparian areas has greatly diminished their habitat, forcing them to rely instead on man-made ponds.

Alameda County has 800-1000 such ponds, many of which were installed in the mid-1900s. Originally established to allow increased herd sizes and a dependable water source for animals, they were designed with a twenty-year lifespan and many are now experiencing failure due to erosion or siltation. The cost of repair, along with the cost and burden of the required environmental permits for repair activities, became such a barrier that many ranchers decided to abandon the ponds, turning instead to tanks and troughs.

Although stock ponds are no longer key water sources for their herds, many ranchers recognize the aesthetic and habitat value of the ponds. Ranchers interested in maintaining ponds have been required to secure permits from six different agencies regulating endangered species, water quality, water rights, wetlands, public works, and navigable waters; this process could take 18 months or more. According to a case study produced by the Alameda County Conservation Partnership, the burdensome process and lag time deterred many landowners from pond restoration they might otherwise have undertaken.¹ As a result of this inaction, Alameda County has lost valuable habitat for at-risk species. According to one rancher, “The cost and disincentive of permits gets in the way of sustaining these pretty fragile wildlife habitats.”

Regulatory Coordination

In an effort to alleviate the disincentives caused by the burdensome regulatory process, the Alameda County Permit Coordination Program² was established in 2006, enabling landowners to file one application with the Alameda County Conservation Partnership, which then coordinates paperwork and communications with the five or six agencies involved. The “Wildlife Friendly Pond Program,” livestock pond restoration is the most common of 18 practices included in the permit coordination program. The practice is notable because the Conservation Partnership was the first to include it in a permit coordination program. It is one of the most difficult practices

1. Proctor, Keith. (n.d.) Frog Farming in Alameda County: Overcoming Barriers, Creating Opportunities. Alameda County Conservation Partnership. http://www.acrcd.org/Portals/0/Ponds%20and%20Permits/Frog_Farming_in_Ala_Co.pdf. Accessed 8/31/10.


2. A partnership between the Alameda County Resource Conservation District and the Natural Resources Conservation Service.

for regulatory agencies to permit because ponds are man-made; the fact that they are not natural means that they do not fit well into existing regulations. Additionally, if you hold water for 30 days in California, you must have a registered water right; many existing livestock ponds were never registered, but the permitting process requires proof of water rights. This can delay the permitting process, and be confusing for landowners, as well as adding the additional cost of water rights fees due every couple of years. Permitting for livestock ponds is further challenged by the frequent presence of threatened and endangered species.

As of 2010, the coordinated permit includes U.S. Fish and Wildlife Service (FWS) Programmatic Biological Opinion (expired); U.S. Army Corps of Engineers (Corps) Regional General Permit (expires in 2012); Regions 2 and 5 of the Regional Water Quality Control Board (RWQCB) Programmatic 401 Water Quality Certification (Region 2 expires in 2011, Region 5 expires in 2013); California Environmental Quality Act (CEQA) Negative Declaration; Alameda County Grading exemption (expires in 2010); and Alameda County Resource Conservation District (ACRCD) as the lead agency (permit expires in 2010). California Department of Fish and Game (CDFG) was involved in the initial negotiations, but ultimately decided that they did not have a mechanism to function under the program. They have, however, been cooperative in issuing individual 1600 Agreements to participating landowners, with which ACRCD provides assistance.

Cost-sharing and safe-harbor agreements were critical companions to permit streamlining in getting landowners to take advantage of the program. Between EQIP,³ NRCS and FWS, a 90% cost-share became available to landowners, reducing the upfront cost to an average of \$3,000 for each pond. The Conservation Partnership worked with Environmental Defense and FWS to include safe harbor-like legal assurances to protect ranchers from liabilities arising under the Endangered Species Act. Technical assistance is also available.

Resolution

 With the original \$250,000⁴ in funding for the Permit Coordination Program, 11 pond restoration

3. Environmental Quality Incentives Program (EQIP) is a Farm Bill conservation program

4. Provided by the County of Alameda, California Coastal Conservancy, and Natural Resources Conservation Service

projects have been completed with 7 additional ponds scheduled for completion by the fall of 2010. The streamlined program has significantly reduced the permitting lag time, a process that used to take months and sometimes years to complete.

Connie Jess was one of the first ranchers to enroll in the program. “We ranchers do want to help wildlife on our land – it’s our natural heritage. What we don’t want are big expenses, time-consuming red tape and more legal restrictions on our business operations.” The Permit Coordination Program gave her the permitting and technical assistance necessary to allow her to restore her pond.⁵ Jackie Charbonneau, of the Alameda County Conservation Partnership, commented that the program had established a good process that is supportive of on-farm restoration projects. Projects are monitored for five years, and once a project’s permits are in place, it is easy to submit the required documentation to agencies.

Currently, the permits included in the coordinated permit are in varying stages of expiration, as listed above. The Conservation Partnership is in the process of determining how they will proceed with permit renewal. In addition to staggered expiration dates, the regulatory process was further complicated by the recent elevation of the California tiger salamander to the state’s threatened species list, posing new regulatory implications. For these reasons, along with limited funding for staff involvement, the future of the program is uncertain.

Primary sources: Charbonneau, Jackie. Phone interview and email. September 9, 2010; Proctor, Keith. (n.d.) Frog Farming in Alameda County: Overcoming Barriers, Creating Opportunities. Alameda County Conservation Partnership. http://www.acrcd.org/Portals/0/Ponds%20and%20Permits/Frog_Farming_in_Ala_Co.pdf. Accessed 8/31/10; Sweet, Karen. Phone interview. August 17, 2010.

5. Quoted from *Alameda County’s rancher and wildlife-friendly program restores ponds and helps rare animals*, Alameda County Resource Conservation District

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