

CONSERVATION

Transferring surplus property to conservation-chartered, non-profit organizations for natural resource conservation is a win-win opportunity.

Conveyance

By Michael R. Bain, Mark J. Knight, CHMM, Michael Gage and J. William Jordan

Conservation conveyance legislation enacted by Congress in December 2002 offers a promising new approach to a challenge many military installations face: transferring surplus property for natural resource conservation. The Sierra Army Depot in Herlong, Calif., has undertaken the nation's first conservation conveyance and the transfer of its Honey Lake parcel is successfully underway.

Property transfers are complex transactions, especially those conducted between the military and state or other government conservation agencies, which typically accept only property that is remediated to the point of protecting ecological resources. Remediation may entail contaminant clean-up, in-depth environmental studies and management planning. The military can find it highly challenging to protect ecological resources on surplus property while observing the military's established protocols and primary mission. As a result, such transfers to conservation agencies can be very slow and may stall completely.

A conservation conveyance allows the military to transfer qualifying surplus property to conservation-chartered, non-profit organizations for natural resource conservation. As an interim owner, any such organization can complete necessary environmental work and then transfer the property to a state, local, or other entity for conservation purposes, or it can retain title to the parcel indefinitely. By working with a conservation-oriented "middleman," both the military and the long-term conservation title-holder achieve their goals without altering their standards or setting unwanted precedents.

Meeting Property Transfer Goals

The state of California took ownership of the 62,000-acre Honey Lake parcel in 1870, and deeded it to the federal government for military use in 1933. California retained a reversionary right to the property, permitting it to reclaim Honey Lake when the military no longer needs the land.

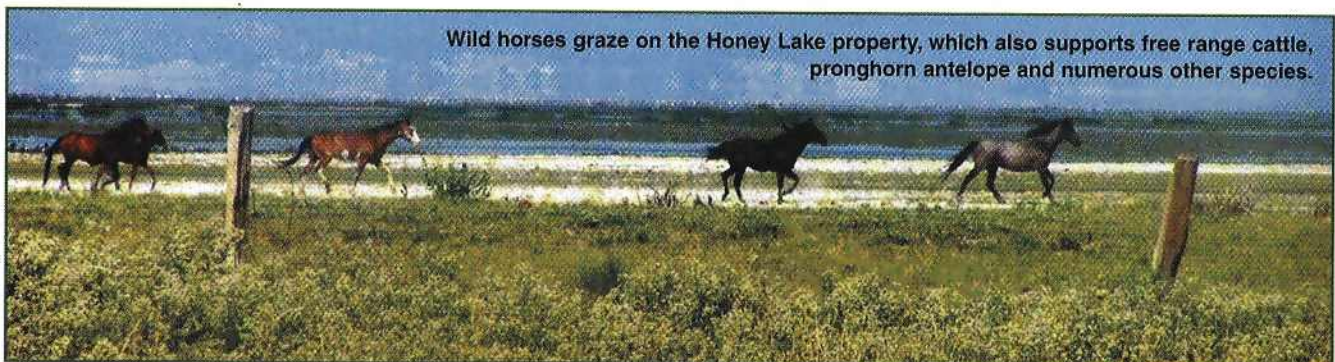
The Army used the parcel—which in some years is a dry lakebed—for a variety of military purposes before designating it as surplus property in the early 1990s. Although no contamination concerns needed to be addressed, environmental and legal concerns the California State Lands Commission raised delayed property transfer for more than a decade.

Realizing that funding levels for the current Base Realignment and Closure (BRAC) rounds would be inadequate by FY04, the Army decided in 2003 to plan for the transfer of 100,000 acres of remaining surplus BRAC property, including the Honey Lake parcel.

Combined Expertise

In May 2003, the U.S. Army Corps of Engineers (USACE) selected the Honey Lake Conservation Team (HLCT) to implement the conservation conveyance process. The HLCT comprises two non-profit organizations, The Trust for Public Land (TPL) and the Center for Urban Watershed Renewal (CUWR) and two engineering companies, Michael Baker Jr. Inc. and The Bioengineering Group Inc. (TBG) which, combined, have the skills and experience needed to complete the Honey Lake project.

The HLCT plans to complete the environmental and



Wild horses graze on the Honey Lake property, which also supports free range cattle, pronghorn antelope and numerous other species.

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other conservation work necessary to fulfill its obligations to the Army and address the California State Lands Commission's concerns. Then, HLCT will transfer title to the Honey Lake parcel back to California by September 2008.

Transferring Risk and Obligations

Environmental projects often involve substantial known and unknown risks. Even after exercising due diligence—the process of investigation during initial environmental and legal review—unknown contamination may yet surface; additional endangered species may be identified; and current or even previous title holders may unexpectedly find themselves responsible for remediation, conservation planning, or other significantly changed environmental obligations.

The Army and the HLCT negotiated the value of the property, taking into account the economic cost of these environmental risks and existing requirements to preserve endangered species and historic and cultural resources. The HLCT accepted the property with its associated risks and obligations and in September 2003, CUWR took title to the Honey Lake parcel and assumed property owner responsibilities.

Beating the Schedule

In 2004, Baker, TPL and TBG worked to develop a management plan to guide future use of Honey Lake. The plan includes a conservation strategy for the Carson Wandering Skipper, an endangered butterfly found primarily at Honey Lake whose nectar sources need to be protected. Evidence that Native Americans historically used Honey Lake has been found at numerous locations, and the management plan includes protocols for the preservation of historic and cultural resources.

Once approved in 2005, the management plan will be subject to an environmental assessment in accordance with the requirements of the California Environmental Quality Act. Close coordination with the project's many stakeholders and the ability to perform many tasks concurrently has helped HLCT to work toward completing the necessary environmental work and transferring the Honey Lake parcel to the California State Lands Commission in late 2005—three years ahead of schedule.

Get the Right Experts Involved Early

Conservation conveyances require expertise in real estate law, negotiations, stakeholder and community relations, agency coordination, environmental and ecological sciences, engineering, risk management and project management. Teams of professionals with these skills need to be engaged early in the property transfer process.

The Honey Lake project involved three sets of negotiations over the course of several months: between the Army and the project team to establish the details of the initial property transfer; among the four team member organizations to define responsibilities, budgets and procedures for conducting the environmental work; and between the project team and the California State Lands Commission to ensure that the state

would indeed take title to the land once work was complete. The negotiations were most productive when all of the key players—the attorneys, lead negotiators and decision-makers for each party, and the necessary environmental experts—met at the same table and worked collaboratively to resolve questions and issues and keep the project moving forward.

It is also valuable to complete due diligence, initial site surveys, and other assessments early in the negotiation process to ensure that all parties fully understand site conditions and the nature of the obligations to be transferred (or retained) as part of a conveyance.

Coordinate with Stakeholders

Any transfer of surplus military land has the potential to affect a large number of parties. The Army's success in transferring Honey Lake to CUWR was only the beginning. The HLCT must complete the obligations it accepted from the Army and satisfy the needs of the California State Lands Commission for the project to be successful.

HLCT has also been working to address the concerns of many other organizations. For example, the U.S. Fish & Wildlife Service is involved to ensure that the endangered Carson Wandering Skipper butterfly is properly studied and protected. The State Historic Preservation Office is overseeing plans and preservation in connection with the site's historic use by Native Americans. More than 90 neighboring landowners are contributing ideas related to Honey Lake's future public use and access points. Similarly, the Lassen County Board of Supervisors, the U.S. Bureau of Land Management, California Department of Toxic Substances Control, California Department of Fish and Game, and several other entities have specific concerns that must be addressed.

All members of the HLCT have communicated regularly and established strong working relationships with the stakeholders. To further strengthen public involvement efforts, the project team engaged a well-respected local rancher to serve as a community relations liaison.

Future Promise

Although every conservation conveyance is unique, the Honey Lake project at the Sierra Army Depot provides ample evidence that conservation conveyance can achieve impressive results when the people who have the necessary expertise and commitment work together to achieve it. TME

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