

**Reducing Dissatisfaction with the Economic Impact
of
Habitat Acquisition Policies
in the
Sacramento River Conservation Area**

Prepared for
CALFED Bay-Delta Program

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Executive Summary

This report focuses on mounting dissatisfaction with the PILT program in counties along California's Sacramento River. When federal or state government agencies purchase land, they are generally exempt from paying property taxes to the county that originally had jurisdiction over the land. The agency's acquisition, therefore, can represent a loss of significant funds for the county, making the provision of vital services difficult.

Congress and state legislatures recognized the hardship on local governments and designed a program to provide payment in lieu of taxes (PILT) to compensate the county governments for the lost proceeds. The PILT payments, however, have historically been paid below full authorization, leaving counties with a smaller tax compensation package and fueling resistance to future land acquisition.

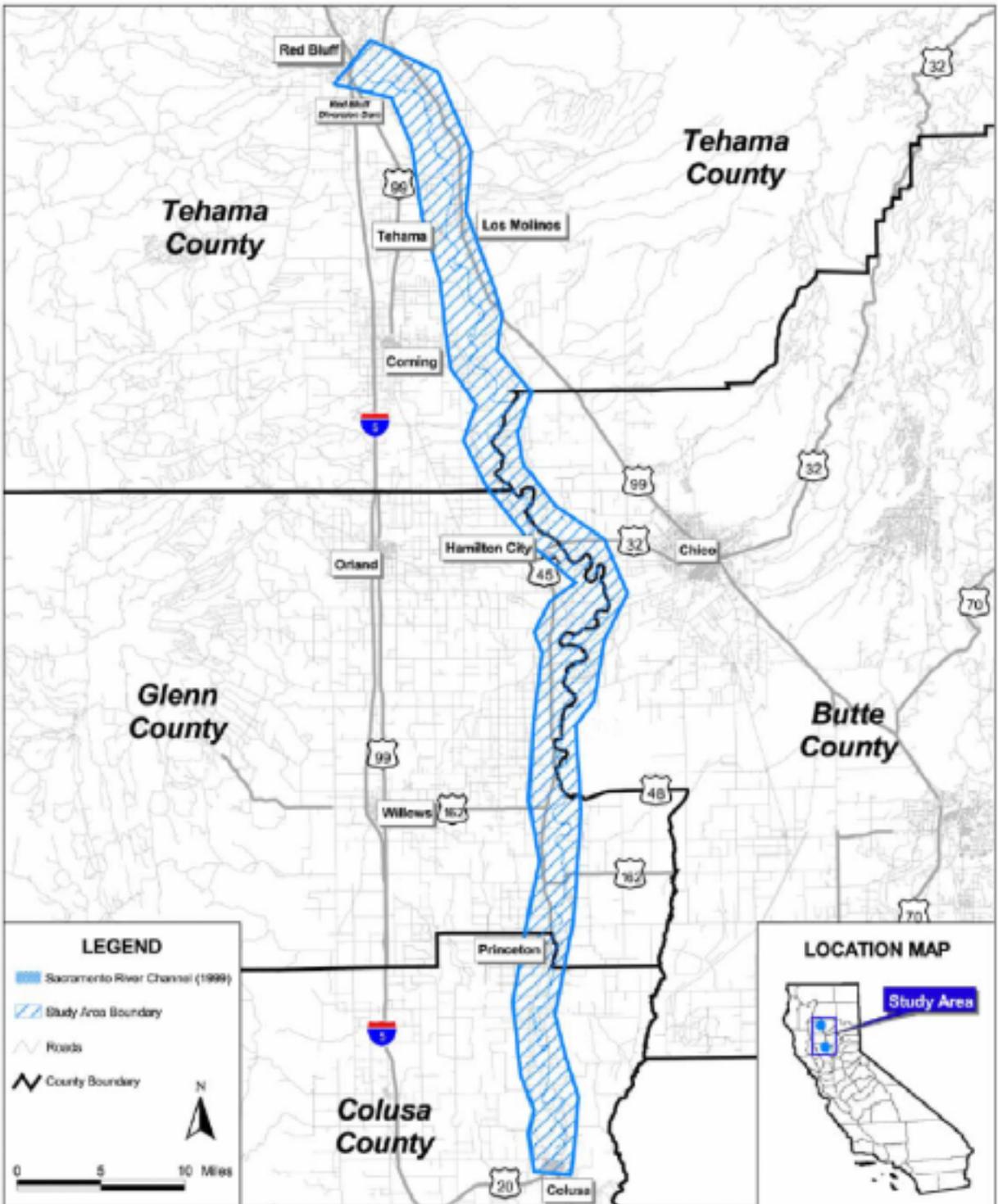
Several government and non-profit agencies are working together under the banner of the CALFED Bay Delta Program to restore habitat along the Sacramento River. To continue their conservation efforts, they must address the dissatisfaction with the PILT program as it relates to land acquisition.

In this study, the broad range of interests from the agricultural community, local government and environmental groups were considered in proposing solutions that would ensure greater certainty of proper PILT payments and help further the goals of river habitat restoration. The following actions for CALFED and appropriate stakeholders are recommended to solve PILT problems:

- Actively support Congressional H.R. 380 and S. 511
- Explore California-specific federal legislation to ensure PILT payments
- Explore a CALFED budget line item as alternative funding for PILTs
- Explore lump-sum alternatives to PILTs
- Explore a third-party guaranteed payment plan
- Formalize liaison relationships between CALFED and stakeholders
- Include outcomes in outreach performance measures

This document is intended to offer substantive recommendations and serve as a template for further discussion and mediation of PILT-related issues among all stakeholders.

Figure 2: Detail of Sacramento River Conservation Area



Revised: TNC (2010); F&W (2002)
Source: Jones and Stokes, 2002.

1. Introduction

1.1 Geographic Area of Concern

The Sacramento River flows 380 miles from Mount Shasta to the San Francisco Bay Delta. It is California's longest river (See Figure 1). The largest source of fresh water emptying into the Delta, it is a major contributor to the irrigation of California agriculture, as well as four salmon runs.¹ The United States, California, and conservation organizations have identified the Sacramento River Conservation Area (SRCA) as a focal point for restoration efforts involving federal and state agencies, environmental groups, and private landowners.² As the map in Figure 2 indicates, the SRCA is a 250-mile stretch of river and adjacent lands below Shasta Dam, running through Glenn, Tehama, Butte, and Colusa counties.

1.2 Focus and Scope

CALFED's Ecosystem Restoration Program (ERP) is developing a plan to restore ecological health and improve water management for the system. ERP is intended to address reduced numbers of native flora and fauna, and to assist with the recovery of endangered species. Habitat restoration is a key component to restoring the ecological health of the SRCA.³

There is mounting dissatisfaction with current habitat restoration policies in the Sacramento River Valley, with various implications. Resistance to some types of restoration has resulted in a more cumbersome and costly process for all involved. In some cases, restoration efforts have been halted altogether.⁴ There are additional concerns about dissatisfaction simply because it is the desire of the restoration agencies to act with as much consensus as possible.

The stakeholders concerned with current policies include agricultural and related industries, municipalities, county governments, state and federal agencies, and environmental interests. The dissatisfaction may be related to the process by which restoration decisions are made, mechanisms and fairness of compensation when lands are purchased for habitat, flood control issues, strong values about public versus private land ownership, differing values placed on restored habitat, and concerns regarding the Endangered Species Act.

When lands are acquired by government agencies or non-profit organizations, they are generally removed from property tax rolls. As compensation for lost tax revenue, a traditional solution has been for state and federal governments to provide county or other local governments annual payment in lieu of taxes (PILT). However, PILT payments have proven to be an unreliable revenue source, often not fully compensating counties for lost revenue.⁵

¹ Water Education Foundation, 2000a.

² Water Education Foundation, 2000b.

³ Ibid.

⁴ Hacking.

⁵ Bureau of Land Management.

This study focuses on dissatisfaction with habitat acquisition due to PILT programs.

The goal of this study is to analyze dissatisfaction due to poor compensation for lost property tax revenue to counties, and to propose solutions to address this dissatisfaction. To that end, a detailed description of the PILT process and its gaps is provided. The criteria used to evaluate different options are discussed, as well as the resulting recommendations. It is not within the scope of this paper to conduct an original economic analysis of the effects of land acquisition.

2. Methodology

This study was conducted for public distribution through the CALFED Bay-Delta Program. CALFED is a consortium of state and federal agencies with management and regulatory responsibility for water resources of the San Francisco Bay and Sacramento-San Joaquin River Delta estuary, including the entire Sacramento River drainage.

Extensive interviews were conducted with farmer landowners, representatives of agricultural interests and conservation agencies, and officials from state, federal, and county government. Quotations from these interviews appear throughout this document. As these quotations are intended to represent a viewpoint and not identify an individual, the quoted remain anonymous. Habitat restoration sites, adjacent farmlands and communities were visited. Existing literature and economic analyses were reviewed along with legislative history and models of conservation practices in other areas of the country. Data on PILT payment histories and distributions were also reviewed. From this research, criteria were developed by which potential recommendations were evaluated.

3. Findings

Findings are grouped in the following general categories: mechanisms for habitat restoration programs, sources of dissatisfaction with land acquisition policies, and a detailed description of the PILT process, legislative history, and record of payment.

3.1 Mechanisms of Habitat Restoration

As illustrated in Figure 3, habitat restoration may take the form of conservation easements, education of landowners, or land acquisitions. In the Sacramento River Valley Conservation Area, it has sometimes been necessary to acquire farmland, which is then converted to habitat.

Land management education:

A significant tenet of CALFED's habitat restoration program is to educate landowners and communities about the value of ecologically productive habitat, as well as ways to achieve that goal. The Working Landscapes Committee of CALFED endeavors to provide landowners with

incentives and support for wildlife friendly farming practices, assisting with regulatory processes and permits, and attempting to minimize adverse impacts to agricultural resources.⁶

Conservation Easements:

Conservation easements conserve land while allowing a landowner to continue using it. Easements are used to protect land by purchasing the development rights without buying the property, creating a voluntary binding agreement that permanently limits a particular property to conservation-compatible uses. The owner retains title to the land, continuing to pay property taxes. Easements are paid as compensation for reduced property value due to limiting the land's uses or potential uses. Typically, conservation easements prohibit subdivision, development, and other activities that are incompatible with healthy natural habitats. In the SRCA, there is generally little dissatisfaction with this type of habitat restoration.⁷

Land acquisition:

There are times when lands are acquired to meet restoration goals. This may be because a landowner is not interested in keeping the land and wishes to sell. It may be that, for ecological reasons, the land should be taken out of agricultural production, as when the risk of run-off from agricultural practices is detrimental to ecological goals. In the area of this study, acquisitions are particularly common in flood plain areas where farmers wish to sell land that is not profitable.

Land acquisitions are an area of great concern among the stakeholders in this study. There are widely divergent estimates of the total acreage of farmland that will be taken out of production to meet CALFED restoration goals. While CALFED has estimated that perhaps a hundred thousand acres⁸ of land may be acquired, the California Farm Bureau estimates upwards of a million acres.⁹

CALFED's 2000 Record of Decision (ROD) marked an explicit effort to deemphasize land acquisition and focus on easements. It must be noted that, when land is acquired, it may or may not be taken out of agricultural production. CALFED notes that farmland is often preserved by their acquisitions (although that farmland is still taken off the tax rolls).¹⁰ By their estimation, 82,000 acres have been protected by their actions thus far. While only 15,000 acres have been converted, 90 percent of the conversion took place before CALFED's ROD.¹¹ The California Farm Bureau disagrees with these estimates.¹² Many people interviewed indicated that the problem may be as much about perception as economics.

⁶ CALFED Working Landscapes Subcommittee.

⁷ The Nature Conservancy.

⁸ Wright.

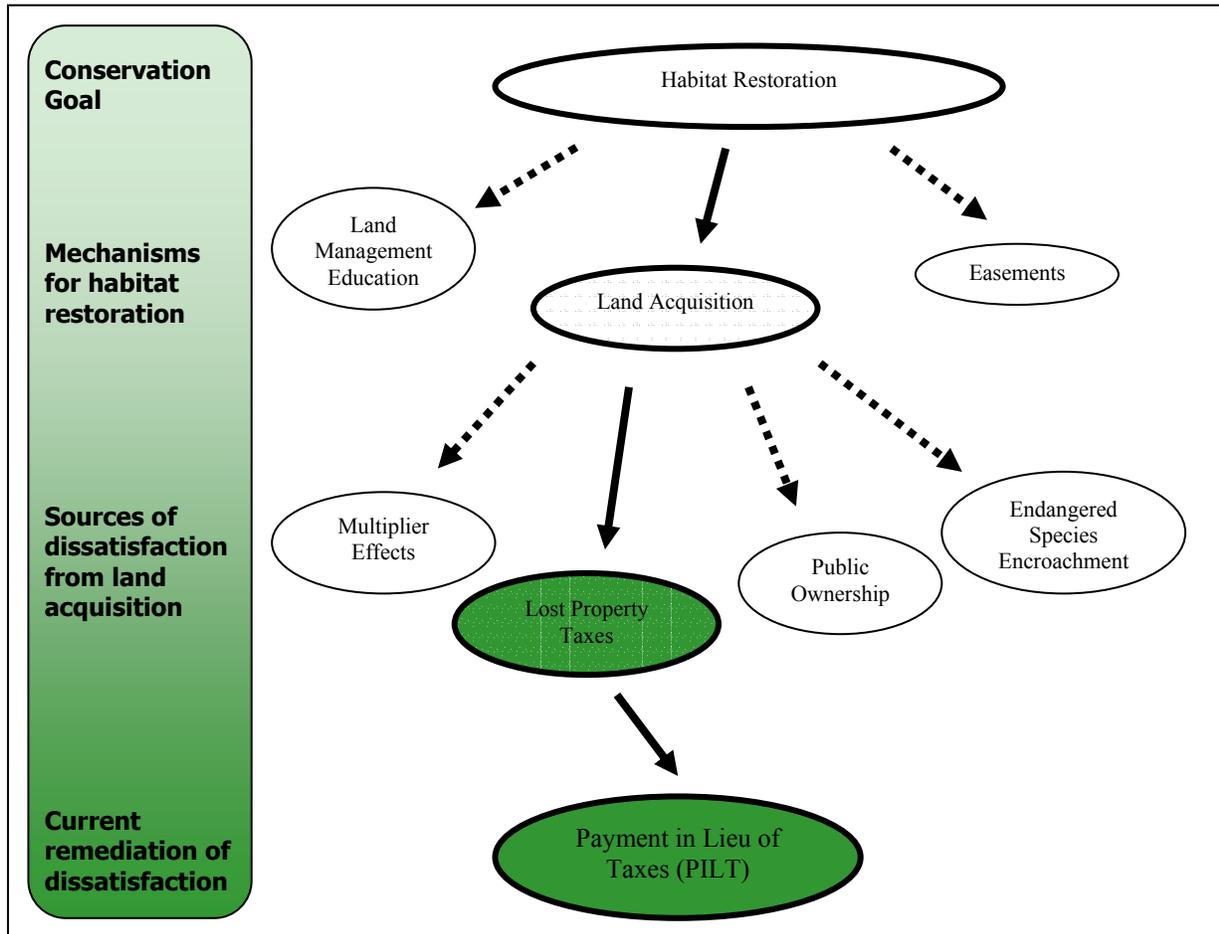
⁹ Farm Bureau Federation.

¹⁰ Wright and Hawkins, April 11, 2003.

¹¹ Wright for all figures in this paragraph.

¹² California Farm Bureau Federation.

Figure 3: Focusing on PILTs



3.2 Sources of Dissatisfaction with Land Acquisition

As illustrated in Figure 3, dissatisfaction with land acquisition for habitat restoration arises for many reasons. In addition to lost property taxes, residents of impacted communities are concerned with multiplier effects that adversely affect their local economies.¹³ Many are troubled by the costly impacts to agriculture when endangered species enter newly restored habitat and begin to encroach on neighboring farms.¹⁴ Still others believe that private land should remain in private hands, and that public land acquisition should be avoided at all costs.¹⁵

There are problems with PILT programs specifically:

- (1) There is a great deal of uncertainty for those dependent on the payments, as the payments rely on annual government appropriations. Payments at the federal level have

¹³ Jones and Stokes.

¹⁴ Oehler.

¹⁵ Pervasive theme in interviews.

never been made at the full authorized amount, and were not made at all on the state level this year.¹⁶

(2) The true value of the payments erodes due to inflation. Under current legislation, some property values are not reassessed over time.

Since local governments often depend heavily on property taxes as income, this inability to tax the properties acquired may have significant impact on a county's ability to provide services.¹⁷ The counties use the PILT payments in a variety of ways.¹⁸ Some counties may choose to treat the PILT payments similar to the property tax revenues that they collect or some counties may choose to treat the PILT payments in a totally different way.

In California approximately 50 percent of the property tax revenues are used to maintain the school system.¹⁹ However, the exact portion of the property tax revenues that each county devotes for the school system can vary substantially. If a county earmarks the PILT payments for funding its school system, in the years when either the federal or the state government or both do not make the PILT payments or make partial PILT payments, the school system in that county may be affected significantly.

Rivaling economic analyses provide divergent estimates of economic impacts to counties. Analyses project different revenues from recreation that will be possible when habitat is restored, may or may not include multiplier effects, and cover different geographical areas (county vs. entire valley).

The following hypothetical story is based upon interviews with stakeholders on all sides of the land acquisition issue and seeks to provide the context in which stakeholder dissatisfaction can be better understood. The story is a composite sketch and is not intended to represent all viewpoints or the viewpoints of any real person.

¹⁶ Bureau of Land Management

¹⁷ Jones and Stokes.

¹⁸ Jones and Stokes

¹⁹ Legislative Analysts Office, 2001.

A Seller

Doug Neilsen, owner of Neilsen Orchards, has been looking at his books. Because of flood damage and new regulations on agriculture, the profit margin has been steadily decreasing on his walnut crops that are along the river and get flooded every couple of years. He has approached The Nature Conservancy (TNC), a willing buyer in his county for this kind of land. They in turn will probably sell the land to the California State Department of Fish and Game or the U.S. Fish and Wildlife Service for habitat restoration.

Doug has been struggling with this decision because he has strong feelings about keeping private land in private hands. However, this land is his business and his business is losing money. A decision must be made. Doug is aware that his decision may impact others in his community.

A Neighbor

Sam Davis, his neighbor, owns Davis Growers. Sam is concerned that, if Doug's land is converted to wild habitat, endangered or threatened species may come onto his property. His perception is that, under the Endangered Species Act, he will be penalized if a protected species enters his land and his normal farming practices cause them harm. Sam shares Doug's feelings about private ownership of land. However, he feels frustrated that he has no input in land use decisions that directly affect him.

A Community

In the last few years, several other farmers in the community have sold their land. A number of those parcels went out of agricultural production. Sheryl Corvino, a local supplier of agricultural products in town, has seen a decline in business these last few years and attributes it to this trend of land sales for habitat restoration. Like Sam, Sheryl would like more input in land use decisions that affect her. But they respect Doug's right to make decisions about his land and his business.

A County

Meanwhile, in County Hall, the supervisors are meeting and discussing the financial outlook for the county. More land has gone into public ownership these last several years and the property tax base has declined. State and federal payments in lieu of taxes, originally intended to remediate this problem, were not made at maximum level again. It is difficult to plan a county budget with so little certainty about PILT income from year to year. The supervisors are discussing a couple of options—demanding full payment from the appropriate government agencies and passing county legislation requiring zoning permits like they do for other special use lands.

A Conservation Agency

Meera Hughes is a Field Representative for TNC. They have a particular interest in habitat restoration on lands adjacent to the Sacramento River. Meera works with willing sellers to purchase these parcels. Although TNC is committed to a community-based process, the increasing dissatisfaction within the community has made it more difficult to acquire land. She is concerned that she may not be able to purchase Doug's property, which is on a segment of the river that is critical salmon spawning habitat.

TNC is sensitive to heightened community interest in public land issues and has therefore asked Doug to join them in any public forum. This, too, is of concern to Doug. If he publicly states that his land has diminished in value for agriculture, what will happen to him if TNC does not or cannot buy his land for habitat?

As the story above illustrates, dissatisfaction with land acquisition policies for habitat restoration has many sources and takes on many forms. Lost property tax revenues and the PILT programs that are designed to remediate them are only one aspect of a complex set of issues. However, as the following section will identify, the problems with PILT payments are tangible and discrete, and are potentially repairable.

3.3 Federal PILT Program

The federal government pays PILTs to a county for lands in that county owned by federal agencies. Similarly, the state of California pays county governments for state-owned land. The legislative history, the administration of the PILT programs, and the historical record of PILT payments sent to county governments are significantly different for the federal government and the state of California. In the next several sections the similarities and differences between federal and state PILT programs will be discussed.²⁰

3.3.1 Legislative history

As U.S. policy was shifting in the 1970s toward greater public ownership of large tracts of land, Congress recognized that counties should be compensated for lost property taxes and passed the Payment in Lieu of Taxes (PILT) Act of 1976. The Act authorized the Secretary of the Interior to make annual payments to counties in which entitlement lands are located. Examples of entitlement lands include lands under the administration of the National Park Service, National Forestry Service, and Bureau of Land Management as well as National Wildlife Reserve Areas.

After years of not receiving full authorization of their PILT payments, county government officials became concerned that the payment levels were too low and failed to keep pace with inflation. Congress responded in 1994 by amending the PILT Act to raise the Secretary of Interior's payment authorization levels and to tie future increases to the Consumer Price Index. The new formula in the amendment affected only *authorization* levels, however, and did not guarantee that Congress would appropriate more funding per acre of federal land. Authorization levels provide a limit to which Congress can appropriate. This limit is not a contractual obligation, but a cap.

3.3.2 Process

The federal PILT process is shown in Figure 4. Bureau of Land Management (BLM), the agency that administers the federal PILT program, calculates payments due to each county by (1) acreage of entitlement land acquired by the federal government in the county, (2) the population of the county, and (3) payments made to the county under other federal programs.²¹ The PILT formula is written such that if the same quantity of land is acquired from two counties, the county with the larger population is entitled to a larger payment than the county with the smaller population. Sparsely populated rural counties often perceive this arrangement as unfair.

²⁰ The information about both the federal and state programs come from the BLM, Corn, Hoffman, and Adams and Gallo.

²¹ California Department of Water Resources reports acreage data to BLM, while the U.S. Census Bureau reports the population data. Payments made under other programs such as Refuge Revenue Sharing Fund, National Forest Fund, Taylor Grazing Act, Mineral Leasing Act, and Federal Power Act are reported by both the California Governor (as part of the state audit) and the federal agencies that made the payments to the counties.

BLM annually calculates the PILT payment due to each county and requests an amount from Congress as a part of its annual budget. Congress deliberates on the amount requested and decides upon an appropriation. Congress then directs the U.S. Treasury to release the appropriated amount to BLM. Based on this amount, BLM transfers the PILT payments to each county. Funding limitations are equitably applied to all payments. If, for example, funds are appropriated at 60 percent of full authorization, each county would receive 60 percent. There is a great deal of uncertainty in this process, particularly as BLM has never requested full PILT authorization.²²

3.3.3 Historical record²³

Since the first federal PILT payments in 1977, payments have averaged about \$104 million annually. To date, over \$2.4 billion have been paid to state and local governments by the federal government. These payments have never been at the full amount authorized in the statute.

As shown in Figure 5, the PILT payments owed by the federal government to the four counties, Butte, Colusa, Glenn, and Tehama, from 1998 through 2002 have been increasing steadily. The increase in the owed amount is due to acreage of land acquired, increasing county population, payments under other federal programs, and the inflation rate.

In 1998, 46 percent of the PILT authorization amounts were made, while the numbers in 1999, 2000, 2001, and 2002 were 41, 42, 59, and 60 percent, respectively. Although in recent years the federal government has been trying to pay a larger percentage of the authorized limit, in absolute terms the gap between the authorization and the appropriation still exists.

Misconceptions about federal PILTs:

PILT payments do not account for inflation.
In 1994, Congress tied PILT calculations to the Consumer Price Index to reflect inflation.

Congress is obligated to appropriate the full authorized amount.

In fact, authorization levels provide a limit to which Congress can appropriate. This limit is not a contractual obligation, but a cap.

Congress is responsible for calculating the amount of payments due.

BLM, part of the U.S. Department of Interior, calculates the payments due to each county and proposes a PILT budget to Congress for approval.

²² Hoffman.

²³ All data in this section are from BLM.

Figure 4: Federal PILT Process

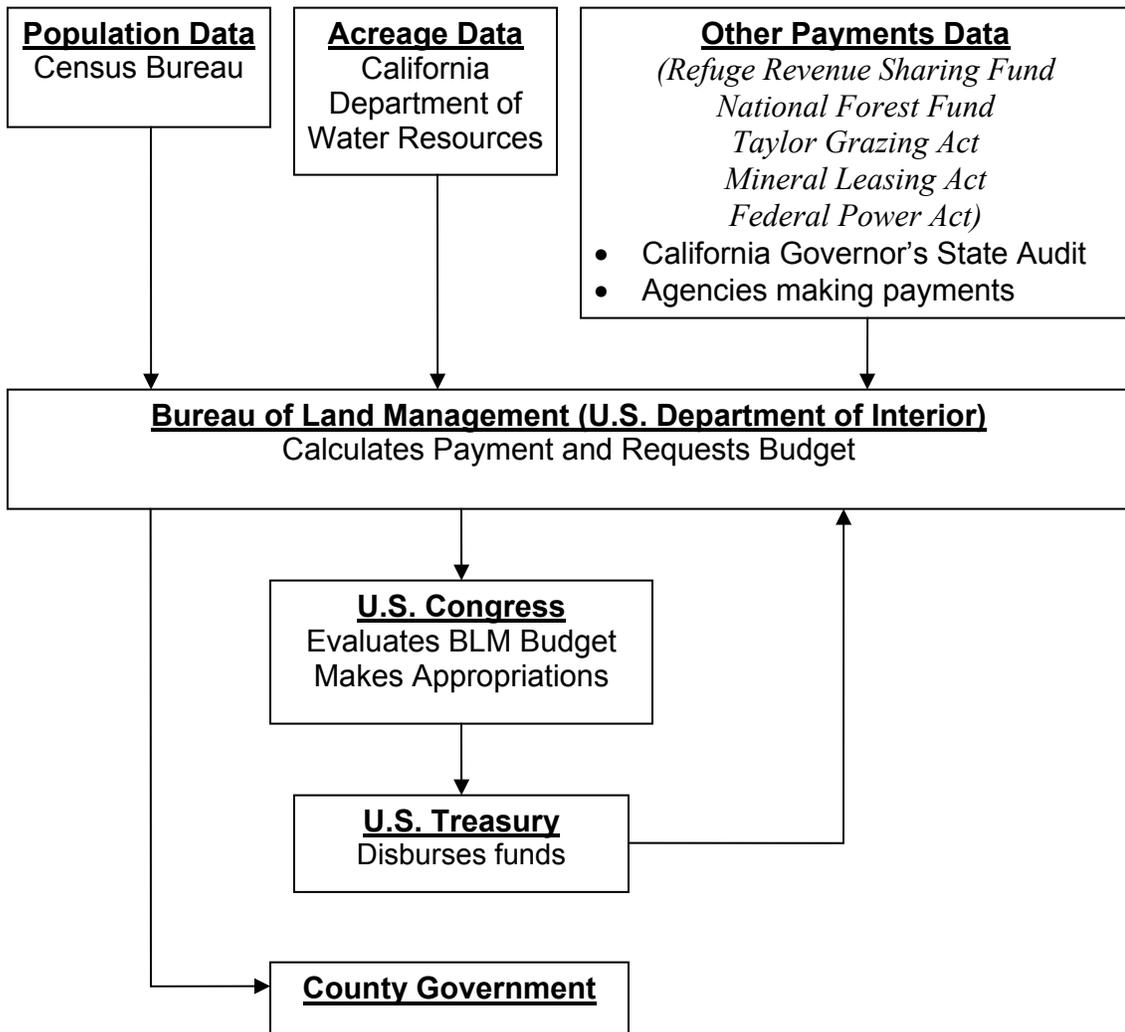
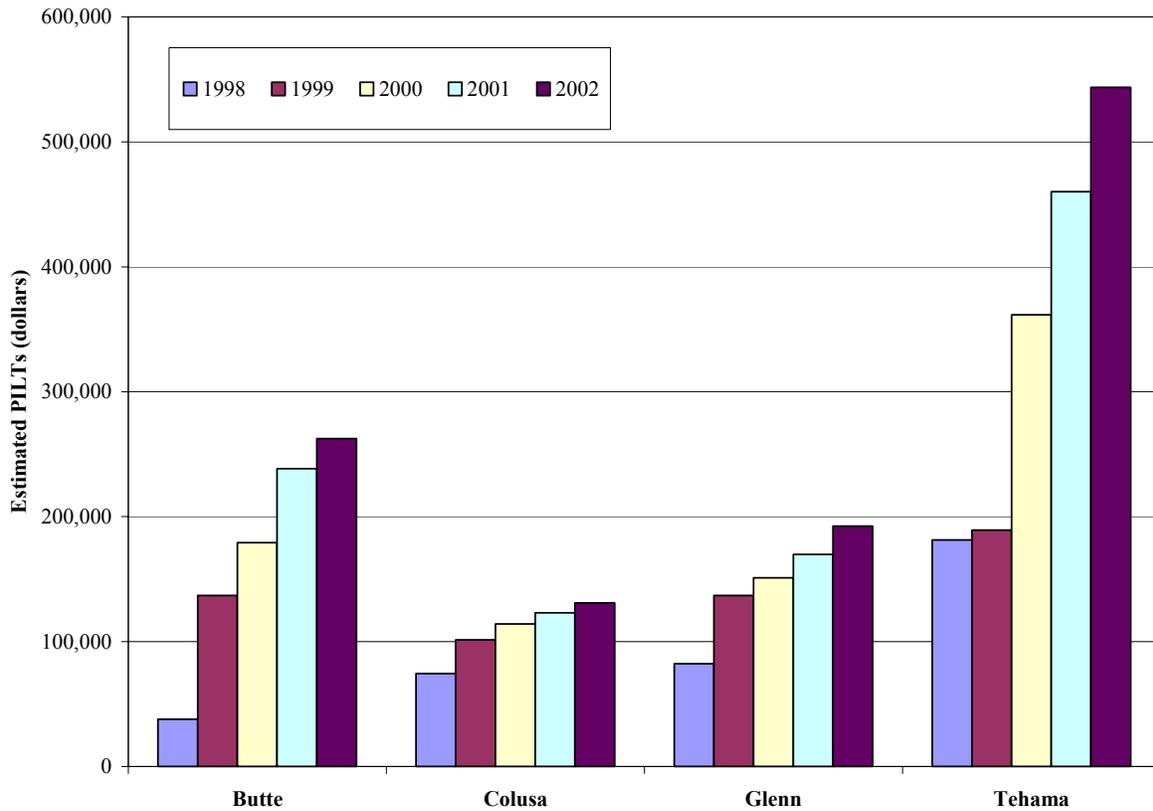


Figure 5: Federal PILT authorization limits from 1998 through 2002



3.4 State PILT Process

The state PILT program is similar to the federal PILT program, but with a few distinct differences.

3.4.1 Legislative history

State PILT payments are made on lands owned by the California Department of Fish and Game (DFG). The state government also provides annual payments to counties under the Williamson Act Program. The Program, which was created by the California Land Conservation Act of 1965, assesses agricultural or open space lands at lower tax rates to give landowners an incentive to maintain the land in its current use.²⁴

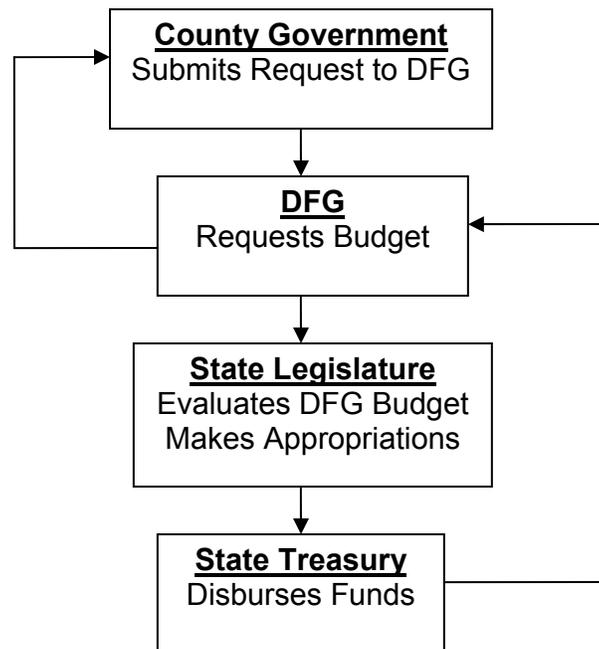
The California legislature recognized the ecological and economic significance of the Sacramento River, its tributaries and riparian lands when it passed the Sacramento River Conservation Act (SB 1086) in 1986.

²⁴ California Department of Conservation.

3.4.2 Process

Unlike the complex formula used under the federal PILT program, the state program simply sets the PILT payments equal to the property tax lost by each county due to land acquisition.²⁵ As outlined in Figure 6, each year the county governments submit a request to DFG for the amount of property taxes lost. The Department of Fish and Game then requests that amount as part of its annual budget from the state legislature. The state legislature decides whether it can fund the full request based on its budgetary constraints for that year and then orders the state treasury to disburse the funds to DFG. Unlike the federal PILT process, where BLM distributes the funds uniformly among all counties, DFG divides the funds due according to the “need” of each county. Consequently, poor counties may get full payments while rich counties may get partial or no payments. The state legislature often makes the payments full in subsequent years for the counties that did not receive the full payments in previous years.

Figure 6: State PILT Process



3.4.3 Historical record

Unlike the federal government, California has consistently made 100 percent of its payments even though there has been some delay for certain counties.²⁶ However, in 2001 and 2002 the state of California was unable to make any payments at all. Given the huge budget problems

²⁵ Adams and Gallo.

²⁶ Hoffman.

faced by the state of California, it is not certain when the PILT requests will be funded in the future.

3.5 Pending Legislation

Today, some members of Congress are attempting to overcome the uncertainty of payments that depend on the appropriation process. Bills in the Senate and House of Representatives are pending approval. The PILT and Revenue Refuge Sharing Permanent Funding Act (S. 511) would authorize the Secretary of the Interior to make the full PILT and RRS payments each year without awaiting Congressional appropriation. Like the Senate bill, The Property Tax Endowment Act of 2003 (H.R. 380) seeks to avoid the appropriations process, but the bill only requests permanent funding for the next five years (through 2008). Furthermore, counties may elect to receive PILT payments as a one-time sum to establish a locally managed endowment.

County governments are also considering the establishment of new zoning regulations to regulate the rate at which lands can be acquired for habitat. A Glenn County plan, for example, defines Wildlife Habitat Zoning Districts that would require a detailed environmental and economic assessment before a county would approve land sold for habitat restoration.²⁷

4. Criteria for Recommendations

From extensive interviews with stakeholders representing diverse interests, a few core issues were found to be the root of dissatisfaction with PILT programs. Proposed solutions were evaluated based upon their ability to address these issues.

4.1 Criteria Explained

Solutions should minimize the economic losses to farmers wishing to sell their lands and to county officials and communities concerned with general funds for building and maintaining schools and roads. Rural communities should feel *certain* that the monies that the government is obligated to provide will be fully funded. The costs incurred from flood control and damage repair and from altered farming practices must also be minimized.

Proposed solutions should be consistent with CALFED's goals of restoring habitat and enhancing endangered species populations. While this report focuses on the Sacramento River Valley, an effective solution will be applicable to other California water systems under CALFED's programs.

Effective PILT policies should:

- Minimize economic losses and costs
- Increase certainty of payments
- Be feasible
- Be cost-effective, efficient and equitable

²⁷ Butte County Administrative Office.

Approaches to fixing the PILT program must be feasible. Changes to laws or the granting of new PILT funding sources must be achievable within the current political and fiscal environment. Once implemented, the solution should continue to be successful even as the political agenda and economy change. An effective proposal will also have support from community members and all levels of government because the solution is cost-effective, efficient and equitable.

4.2 Options Considered But Eliminated

Stopping new land acquisitions, while certainly putting a stop to future lost tax revenue and associated problems, would not address the ongoing problems with PILTs for previous land acquisitions. Additionally, willing sellers would not be able to dispose of lands of low agricultural quality for the best price and would be locked into a loss-making enterprise. This option could be adopted immediately and at no additional cost. However, it fails to significantly address the PILT issue. It has the potential of reducing some dissatisfaction, but unless the PILT issue is resolved, the dissatisfaction would continue to grow.

It should be noted, however, that CALFED's Record of Decision (ROD) marked an explicit policy to minimize restoration efforts that take lands off the tax rolls. The ROD provides that acquisitions will be a last resort, after first looking at public lands available and easements.

A second option would be to change the federal PILT authorization formula to address equity concerns. Congress has struggled in the past to devise a more equitable and comprehensive compensation scheme. Counties have historically been unable to agree on language that would change the formula or law fundamentally.²⁸ Therefore, this option did not agree with this study's feasibility criteria.

5. Recommendations

Simply put, ensuring counties receive full reimbursement for lost property taxes when private lands are made public is the right thing to do.

Recommendations are made for securing greater certainty of such funding for impacted counties.

Outreach, involving the process of communications and stakeholder input, is essential to all efforts. Recommendations are made for CALFED and stakeholders to explore

with an understanding that the best options will be pursued.

"There should be 100 percent payments on time, everywhere."

5.1 Legislation

²⁸ Corn, M. Lynne, "PILT (Payments in Lieu of Taxes): Somewhat Simplified," CSR Report 98-374, June 24, 1998.

5.1.1 Support legislation that would improve PILT programs

As discussed previously, federal legislation that would improve current PILT programs is currently pending in both the Senate and the House of Representatives (at the time of this writing). CALFED and PILT stakeholders should actively support these bills or similar future legislation.

5.1.2 Explore California-specific federal legislation to ensure PILT payments

As an alternative to the current proposals that target all PILTs nationwide, legislation could be drafted that guarantees payments in California only. An obvious criticism of this plan might be that legislators from outside California would have no reason to vote for such a bill. However, numerous other states with large tracts of public lands (Utah, for example), might sense an opportunity to get similar legislation for themselves if California were successful. Thus, California's PILT stakeholders might build a coalition of congressional support for state-specific PILT guarantees. At least a dozen other, mostly western, states receive substantial PILT monies from the Bureau of Land Management and would likely back California's efforts. Still more backing could be garnered by exchanging support on California PILT legislation for Californian support on other state-specific issues. Essential to pursuing this alternative is for stakeholders to lobby their congress people with a loud and unified voice.

5.1.3 Explore a CALFED budget line item as alternative funding for PILTs

Still another way to obtain greater certainty in annual funding for PILTs would be to attach a line item to CALFED's budget. This plan could attack the PILT problem at both the state and federal level. Tacking the additional funds needed to make full PILTs to the CALFED budget would likely make little difference in the ultimate approval of the annual CALFED appropriation, as it would represent only a small percent increase in the overall appropriation. Furthermore, at the state level any opposition to such a plan would be more than counter-balanced by the broad constituency of PILT beneficiaries within California. On the federal level, CALFED might, at a minimum, receive extra funding sufficient to make-up for the annual short-fall in federal payments in lieu of taxes.

5.2 Alternative Sources of In Lieu Funding

There are also a number of possible sources of alternative funding to ensure counties can make up short-falls when PILTs are under-funded or not made at all. These options occur at a local level and are not subject to state or federal budgetary fluctuations. Possible alternatives include county-level grants or guaranteed multi-year payments by the land purchasing agent.

5.2.1 Explore lump-sum alternatives to PILTs

One way to ensure counties greater certainty of in lieu payments is to have the agent who buys the land pay the county a lump-sum PILT based on the present discounted value of the expected stream of income from the property taxes on the land. The lump-sum payment could take the form of a grant which the county could then invest and draw on as it

"Other counties have destroyed their habitat for economic benefit. We haven't, and now we're being punished. We should get the benefit of restoration. "

desired. This approach would provide counties far greater certainty than current PILT programs, but would undoubtedly place them under pressure to spend more money in the near-term than they would under the current revenue stream. One way to mitigate the pressure on the county to spend the lump-sum all at once would be to develop guidelines or regulations that placed a maximum, or “ceiling,” on how much of the one-time payment the county could spend each year. This would help to ensure that the lump-sum money acted more like the steady flow of property tax revenues it was meant to replace, but would leave counties with some flexibility to make judgments about their own short-term and long-term needs.

5.2.2 Explore a third-party guaranteed payment plan

Another alternative is to have the land-purchasing agent set up a fund through a commercial financial institution from which annual payments would be made to counties. Such an arrangement would work similarly to the option above, but would eliminate the pressure for the county to spend the money up front, and would not require the purchasing agent to pay the entire lump-sum at the time of the land sale. Instead the third-party (e.g. the bank) would guarantee the future payments as it would any other financial contract, and the buyer would be liable to make the annual payments. Under the current system, neither the state nor the federal government agencies are strictly liable in this way.

5.3 Outreach

The degree to which any program can ameliorate stakeholder dissatisfaction is dependent upon an honest and open forum to reduce distrust among affected parties. The desire for improved communication between parties was nearly universal among those contacted for this study. CALFED is clearly aware of this issue and has been making significant strides toward a more inclusive habitat restoration decision-making process, as evidenced by the goals of the Working Landscapes Committee. However, this Committee is focused on land use education for landowners, not land acquisition issues.

While there have been many meaningful efforts to be more inclusive, there is a great deal of concern among some stakeholders about being excluded. The following recommendations are intended to formalize these efforts, providing observable results that may begin to build trust.

“My impression is that the gap is more philosophical than economic.”

5.3.1 Formalize liaison relationships between CALFED and stakeholders

One way to ensure observable results in outreach efforts would be to formalize liaison relationships between CALFED and groups representing diverse interests. Liaisons would minimize the perception of some groups that they do not “have a seat at the table,” as they perceive that other groups do who share CALFED’s goals. Furthermore, liaisons would likely increase attendance at public meetings intended to welcome community input which are now under-attended. For example, a liaison representing farmers’ interests could help ensure that meetings in which farmers’ input is desired are not held during planting or harvesting season.

5.3.2 Include outcomes in outreach performance measures

CALFED's Working Landscapes Committee is an example of an organization with clear goals and performance measures regarding stakeholder input, primarily focusing on increased participation and attendance in a variety of community forums. While a record of attendance at a community meeting might indicate that a wide variety of interests were represented, it is not evidence that those interests were represented in the decisions subsequently made. Those contacted for this study were concerned both with equitable outcomes and with equitable process. As such, performance measures of outreach goals should include not only attendance and participation, but also specific ways in which decisions are affected.

6. Conclusions

Current Payment In Lieu of Tax programs do not consistently and fully reimburse counties for lost property tax revenues when private land is made public. As a result, counties are made unambiguously worse off economically. Correcting this problem with PILTs and ensuring full reimbursement of lost revenues is the right thing to do.

To this end, CALFED and appropriate stakeholders should:

- Actively support Congressional bills H.R. 380 and S. 511
- Explore California-specific federal legislation to ensure PILT payments
- Explore a CALFED budget line item as alternative funding for PILTs
- Explore lump-sum alternatives to PILTs
- Explore a third-party guaranteed payment plan
- Formalize liaison relationships between CALFED and stakeholders
- Include outcomes in outreach performance measures

The shortcomings of federal and state PILT programs exacerbate dissatisfaction with land acquisition policies. Although identifying and correcting problems with PILT payments cannot hope to address all sources of dissatisfaction, ensuring that counties receive full compensation for lost tax revenues will help by providing a more economically equitable outcome.

This document is intended to offer substantive recommendations and serve as a template for further discussion and mediation of PILT-related issues among all stakeholders.

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