

COASTAL CONSERVANCY

Staff Recommendation
December 2, 2004

SOUTH BAY SALT POND RESTORATION PLANNING

File No. 02-070
Project Manager: Amy Hutzel

RECOMMENDED ACTION: Authorization to disburse up to \$2,000,000 of Conservancy funds, which will be reimbursed by the Wildlife Conservation Board, to undertake work associated with the South San Francisco Bay Salt Pond restoration planning effort.

LOCATION: San Francisco Bay, south of the San Mateo Bridge, in Alameda, Santa Clara, and San Mateo Counties (Exhibit 1)

PROGRAM CATEGORY: San Francisco Bay Area Conservancy

EXHIBITS

Exhibit 1: Project Location and Site Map

Exhibit 2: Schedule

RESOLUTION AND FINDINGS:

Staff recommends that the State Coastal Conservancy adopt the following resolution pursuant to Sections 31000 *et seq.* of the Public Resources Code:

“The State Coastal Conservancy hereby authorizes disbursement of up to two million dollars (\$2,000,000) for technical studies, planning, data collection, and other work associated with the South San Francisco Bay Salt Pond restoration planning. Prior to entering into agreements for the disbursement of funds pursuant to this authorization, the Executive Officer shall enter into a Memorandum of Understanding with the Wildlife Conservation Board describing the relevant budget and work to be performed and providing for reimbursement of the Conservancy’s expenditures. The Executive Officer is further authorized to enter into a Feasibility Cost Share Agreement with the U.S. Army Corps of Engineers for the expenditure of all or a portion of these funds, matched by an equivalent amount of U.S. Army Corps of Engineers’ funding for the South San Francisco Bay Shoreline Study.”

Staff further recommends that the Conservancy adopt the following findings:

“Based on the accompanying staff report and attached exhibits, the State Coastal Conservancy hereby finds that:

1. The proposed authorization is consistent with Public Resources Code Sections 31160 *et seq.*, regarding the Conservancy's mandate to address the resource and recreational goals of San Francisco Bay Area and with its authority under Public Resources Code Section 31104 to accept financial support from public and private sources.
2. The proposed project is consistent with the Project Selection Criteria and Guidelines adopted by the Conservancy on January 24, 2001."

PROJECT SUMMARY:

This authorization would enable the Conservancy to continue to facilitate the long-term restoration planning for 15,100 acres of Cargill's salt ponds in South San Francisco Bay, in cooperation with the California Department of Fish and Game (DFG) and U.S. Fish and Wildlife Service (FWS). In addition, this authorization would allow for the engagement of the U.S. Army Corps of Engineers ("Corps") in this effort.

The Conservancy, FWS, and DFG are working with consultants, nongovernmental organizations, universities, and public agencies to conduct data collection and technical studies, formulate alternatives, prepare environmental documents, estimate the costs of restoration, identify potential sources of funding, develop an implementation, monitoring, and adaptive management plan, and obtain all necessary permits for the first phase of restoration. In addition, the Conservancy, DFG, and FWS, with the assistance of the Center for Collaborative Policy of California State University Sacramento, are conducting an extensive collaborative planning process, engaging trustee and regulatory agencies, local governments, nongovernmental organizations, and the public in order to ensure the proposed project is widely supported.

Senator Feinstein and the participating private foundations have stressed the importance of implementing restoration of the salt ponds at the earliest possible date and have indicated that implementation should begin in 2008. Therefore, development of goals and objectives, opportunities and constraints, alternative selection criteria, and identification of data gaps must occur early in the planning process, be closely followed by needed data collection, concept and alternative development, environmental documents, an implementation strategy, a monitoring and adaptive management plan, and an operations and maintenance plan. In order to conduct restoration work in 2008, these tasks must be completed by 2007, in order to allow time for final design and permitting of the Phase 1 work.

Work undertaken to date includes project management, technical work, regulatory agency coordination, scientific oversight and involvement, and public involvement. The project schedule is attached as Exhibit 2. These work elements are being conducted within the framework of the collaborative planning process that has been established, and work products are being developed with the input and review of the Project Management Team, Stakeholder Forum, Science Team, National Science Panel, and Local Government Forum. This authorization will enable the Conservancy to continue to conduct tasks in partnership with the Resources Legacy Fund, a nonprofit organization that is managing the private foundation funds contributed to the restoration planning by the Hewlett, Packard, and Moore Foundations, utilizing funds provided by the Wildlife

Conservation Board for the implementation of San Francisco Bay Area wetland habitat restoration projects.

This authorization would also allow the Conservancy to enter into a cost-share agreement with the U.S. Army Corps of Engineers. In 1992, the Corps found that there was not a federal interest in developing a flood management project along the South San Francisco Bay Shoreline mainly because Cargill Salt had an economic interest in maintaining its existing and (un-engineered) salt pond levees. Now that 15,100 acres of the salt ponds in the South Bay have been acquired, the U.S. House of Representatives has requested that the Corps review their last study and expand its scope to include environmental restoration and protection, as well as tidal and fluvial flood protection. Based on the results of the study's cost-benefit analyses, the Corps may be able to cost-share significant portions of the South Bay Salt Pond Restoration Project, including restoration, flood management, and recreational components.

The Corps' South San Francisco Bay Shoreline study area overlaps the South Bay Salt Pond Restoration Project, encompassing the entire shoreline south of Highway 92 on the East Bay side and south of Redwood Creek on the west side. The Corps has been participating in the restoration project for the past year, providing their services under a Support for Others Agreement with the Conservancy. The recently completed Reconnaissance Study for the South San Francisco Bay Shoreline Study was completed by the Corps using federal funds appropriated for the project. The Feasibility Study for the South San Francisco Bay Shoreline needs to be cost-shared between the Corps and non-federal partners. The non-federal sponsors can provide their share through in-kind services, such as the work of technical consultants. Work completed using this authorization, along with work conducted under previous authorizations, may count wholly or partially as the non-federal cost-share. In addition, the Santa Clara Valley Water District and the Alameda County Flood Control and Water Conservation District may provide in-kind services or cash contributions towards the non-federal cost share.

Site Description and Project History: The entire South Bay salt pond complex is spread over an area of approximately 26,000 acres. Salt ponds surround nearly the entire Bay south of the San Mateo Bridge (Exhibits 2 and 3), on lands that were formerly tidal marsh. An estimated 85 percent of the historic tidal marshes in the San Francisco Bay-Delta Estuary have been filled or significantly altered over the past two centuries for urban development, agriculture, and salt production. Although dramatically different than 150 years ago, the South Bay's wetland habitats, including the salt ponds, tidal marshes, sloughs, mudflats, and open bay, are used by large populations of waterfowl and shorebirds, by harbor seals, and by a number of threatened and endangered species, including the California clapper rail, California black rail, California brown pelican, California least tern, western snowy plover, salt marsh harvest mouse, and steelhead trout.

In October 2000, Cargill Salt proposed to consolidate its operations and sell lands and salt production rights on 61 percent of its South Bay operation area (15,100 acres). Negotiations headed by Senator Dianne Feinstein led to the signing of a framework agreement setting forth the understanding of the parties for public acquisition of these South Bay salt ponds, along with 1,400 acres of crystallizer ponds along the Napa River. The framework agreement was signed in May 2002. A Conveyance Agreement was signed in February 2003 and escrow closed in March 2003. The \$100 million purchase price was funded with \$72 million from the WCB, \$8 million from FWS, and \$20 million from the Goldman Fund, Hewlett Foundation, Moore Foundation, and Packard Foundation.

FWS and DFG took ownership of the properties at closing, but Cargill is managing the properties while conducting a phase-out of salt-making operations. FWS and DFG, with Cargill's technical assistance, are currently planning and preparing for the initial stewardship of the salt ponds (maintenance of levees and management of water), to begin upon completion of phase-out by Cargill. The Initial Stewardship Plan and associated Draft EIR and Draft EIS have been released to the public.

While the ponds are being managed under the Initial Stewardship Plan, the Conservancy, FWS, and DFG are charged with developing a long-term restoration plan. In August 2002, the Conservancy authorized \$500,000 in funding for this project; in January 2003, the Conservancy authorized an additional \$2,000,000; and in March of 2004, the Conservancy authorized \$3,000,000 that will be reimbursed by the Wildlife Conservation Board. All of the funds authorized to date have been encumbered in grant agreements, interagency agreements, or contracts. Funds are being used for the following work:

- **Alternative Development and Analysis:** A consultant team led by Philip Williams and Associates has spent one year developing detailed project objectives and evaluation criteria, an opportunities and constraints report, an alternative development framework, a mercury strategy memo, and initial options for restoration, flood management, and public access. This effort is being funded by the Conservancy and the Resources Legacy Fund, which represents the private foundations that have contributed to the planning effort.
- **Interdisciplinary Monitoring:** The U.S. Geological Survey ("USGS") is in the second year of a two-year monitoring effort in the South Bay. All of the ponds are being monitored for birds, fish, and invertebrates, and water quality. Neighboring sloughs are being monitored for fish and invertebrates and water quality. USGS is also assisting with hydrodynamic and land surface data collection and analysis.
- **Scientific Oversight:** The Coastal Conservancy Association has established a National Science Panel and a local Science Team to provide advice, recommendations, and review. The local Science Team is also developing a science plan, synthesizing existing information on key science issues, and developing an adaptive management framework in conjunction with the Philip Williams and Associates team.
- **Public Involvement and Outreach:** The Center for Collaborative Policy ("Center"), a project of California State University Sacramento, has developed a Stakeholder Forum and public work groups that meet regularly to provide feedback on project developments. In addition, the Center distributes quarterly email newsletters, conducts outreach to local government staff and elected officials, conducts media outreach, and developed a project brochure.
- **Topographic and Bathymetric Surveys:** To better understand the physical processes in the South Bay, an up-to-date survey of the land surface is needed. USGS has collected bathymetric data for the majority of the salt ponds, Terrapoint has conducted an air-based survey of the uplands, levees, and dry salt ponds, and Sea Surveyor is conducting a bathymetric survey of the South Bay and several slough channels.
- **Web Site and Data Management:** The San Francisco Estuary Institute manages the project web site, www.southbayrestoration.org, and is developing a Geographic

Information Systems (“GIS”) to manage and share the project data. A subset of the data will be shared with the public via a map-based feature on the web site.

PROJECT FINANCING:

Coastal Conservancy (<i>this authorization</i>)	\$2,000,000
Wildlife Conservation Board grant to Conservancy	
Coastal Conservancy (<i>already authorized/encumbered</i>)	3,000,000
Wildlife Conservation Board grant to Conservancy	
Coastal Conservancy (<i>already authorized/encumbered</i>)	3,000,000
Resources Legacy Fund	5,898,600
Funding from Hewlett, Packard, and Moore Foundations	
U.S. Army Corps of Engineers (<i>secured</i>)	100,000
Other Sources (<i>not yet secured</i>)	
Total Project Cost	\$14,000,000

In 2003, the Wildlife Conservation Board (WCB) granted \$40 million to the Conservancy to fund Bay Area wetland habitat restoration projects, including related planning and technical design activities that implement the wetland restoration goals of the San Francisco Bay Joint Venture and the *San Francisco Baylands Ecosystem Habitat Goals Report* (1999). It is anticipated that the Conservancy’s funding will come from the funding the WCB has provided to the Conservancy from the “Water Security, Clean Drinking Water, Coastal and Beach Protection Fund of 2002” (Proposition 50), which can be used for planning costs associated with the protection and restoration of coastal wetlands identified in the *San Francisco Baylands Ecosystem Habitat Goals Report* within the nine-county San Francisco Bay area described in Public Resources Code Section 31162. The South Bay Salt Ponds are identified for acquisition, protection, and restoration in the *San Francisco Baylands Ecosystem Habitat Goals Report*, a local plan recognized in Proposition 50 as appropriate for selection of restoration projects in San Francisco Bay. Pursuant to Section 31162(b) of the Public Resources Code, this project furthers the San Francisco Bay Area Conservancy Program’s goal to protect, restore, and enhance natural habitats. The project is also consistent with the San Francisco Bay Regional Water Quality Control Board’s goal to protect beneficial resources, as described in the Water Quality Control Plan for the San Francisco Bay Basin (1995).

The Corps conducted the South San Francisco Bay Shoreline Reconnaissance Study with \$100,000 appropriated by Congress in FY 2004. The Cost Share Agreement for the Feasibility Study will require a 50% federal and 50% non-federal cost-share. The federal cost-share is dependent on Congressional appropriations. The non-federal match can be used for in-kind services, such as the work of technical consultants. This authorization, which will be used to continue work on the South Bay Salt Pond Restoration Project may be able to be counted wholly or in part as the non-federal cost-share. In addition, it is anticipated that other non-federal partners, such as Santa Clara Valley Water District and Alameda County Flood Control and Water Conservation District, will provide in-kind services or funding that will count towards the non-federal cost-share.

CONSISTENCY WITH CONSERVANCY'S ENABLING LEGISLATION:

This project would be undertaken pursuant to Chapter 4.5 of the Conservancy's enabling legislation, Public Resources Code Sections 31160-31163, to address resource goals in the San Francisco Bay Area.

The South Bay salt ponds are in the nine-county Bay Area as required under Section 31162 of the Public Resources Code, which authorizes the Conservancy to undertake projects and award grants in the nine-county San Francisco Bay Area.

Under Section 31162(a), the Conservancy may undertake projects to improve public access to and around the Bay, without having a significant adverse impact on environmentally sensitive areas and wildlife, such as wetlands, through completion of regional trails, local trails connecting to population centers and public facilities and which are part of a regional trail system, and through the provision of related facilities. The restoration planning effort will include plans for public access, completion of segments of Bay Trail and connecting trails, and other recreational components.

Under Section 31162(b), the Conservancy may act to protect, restore, and enhance natural habitats and connecting corridors, watersheds, scenic areas, and other open-space resources of regional significance. The restoration of the South Bay salt ponds would restore and enhance nearly 16,000 acres of wetlands, and would be a habitat restoration project of regional and national significance.

Consistent with Section 31163(c), the South Bay salt pond restoration project would implement the policies and programs of the *San Francisco Bay Plan*, as described in the "Consistency with the San Francisco Bay Plan" section of this staff recommendation.

Under Section 31162(d), the Conservancy may act to promote, assist, and enhance projects that provide open space and natural areas that are accessible to urban populations for recreational and educational purposes. The South Bay salt ponds will provide an important open space resource for recreational purposes.

Consistent with Section 31163(c), restoration of the South Bay salt ponds meets the following criteria: (1) is supported by adopted regional plans (*San Francisco Bay Plan*, *San Francisco Baylands Ecosystem Habitat Goals Report*, and the *Water Quality Control Plan* for the San Francisco Bay Basin), (2) is multijurisdictional (spanning three counties) and serves a regional constituency (the restoration project is of national significance and will provide a regional recreational resource), (3) can be implemented in a timely way (restoration planning is expected to take five years, at which point restoration will be implemented in a phased manner), (4) provides opportunities for benefits that could be lost if the project is not quickly implemented (long-term restoration planning must be carried out now in order to leverage the private foundation funds and achieve wetland habitat goals in a timely manner) and (5) includes matching funds (described under Project Financing).

The project is also consistent with Sections 31163(a) and (c), directing the Conservancy to participate in and support interagency actions and public/private partnerships in the San Francisco Bay Area to implement long-term resources and outdoor recreational goals.

CONSISTENCY WITH CONSERVANCY'S STRATEGIC PLAN GOAL(S) & OBJECTIVE(S):

Consistent with **Goal 10 Objective B** of the Conservancy's Strategic Plan, the proposed project would help the Conservancy develop plans for approximately 15,000 acres of wetlands in the Bay.

**CONSISTENCY WITH CONSERVANCY'S
PROJECT SELECTION CRITERIA & GUIDELINES:**

The proposed project is consistent with the Conservancy's Project Selection Criteria and Guidelines adopted January 24, 2001, in the following respects:

Required Criteria

1. **Promotion of the Conservancy's statutory programs and purposes:** See the "Consistency with Conservancy's Enabling Legislation" section above.
2. **Consistency with purposes of the funding source:** See the "Project Financing" section above.
3. **Support of the public:** This project is supported by Senator Dianne Feinstein, the Richard and Rhoda Goldman Fund, the William and Flora Hewlett Foundation, the Gordon E. and Betty I. Moore Foundation, the David and Lucile Packard Foundation, Resources Legacy Fund, the California Resources Agency, California Department of Fish and Game, U.S. Fish and Wildlife Service, Santa Clara Valley Water District, Alameda County Flood Control District, the San Francisco Bay Joint Venture, Save The Bay, The Bay Institute, National Audubon Society, Citizen's Committee to Complete the Refuge, Cargill, and many other agencies, organizations, and individuals.
4. **Location:** The South Bay salt ponds are in the nine-county San Francisco Bay Area consistent with Section 31162 of the Public Resources Code.
5. **Need:** Approximately 85 percent of the tidal marsh in San Francisco Bay has been lost since the Gold Rush, leading to dramatic losses of fish and wildlife, decreased water quality and increased turbidity in the Bay, and changes to physical processes as the size of the Estuary shrank, increasing the need for dredging and the local hazards of flooding. The need for restoration of tidal marsh in San Francisco Bay in order to aid in the recovery of at-risk species, and improve water quality and the physical health of the Bay, is well recognized among scientists and resource managers.
6. **Greater-than-local interest:** Restoration of this area is of national significance and will result in the largest tidal wetland restoration project on the west coast of the United States. When combined with other restoration projects underway in San Francisco Bay, including Napa-Sonoma Marsh, Hamilton/Bel Marin Keys, Bair Island, Eden Landing, and Sonoma Baylands, the project is on scale with other national restoration efforts, such as the Everglades and Chesapeake Bay. Restoration of the South Bay salt ponds to a mix of tidal marsh and managed ponds will provide benefits to a large number of species, including migratory waterfowl and shorebirds, and aid in the recovery of several threatened or endangered species, including the California clapper rail and salt marsh harvest mouse.

Additional Criteria

7. **Urgency:** The acquisition of the South Bay Salt Ponds closed in March of 2003 and there is a strong desire among the foundations, agencies, and by Senator Feinstein for restoration planning to be completed within five years.

8. **Resolution of more than one issue:** The restoration of the South Bay salt ponds will provide for habitat restoration for fish and wildlife, improved water quality and flood control, and enhanced recreational opportunities.
9. **Leverage:** See the “Project Financing” section above.
10. **Innovation:** Restoration of the South Bay salt ponds will be a national model for how to coordinate a scientifically sound, publicly-supported, multi-objective, multi-agency project, on scale with the Everglades and Chesapeake Bay. The Conservancy will draw upon its experience with Napa Marsh, Hamilton/Bel Marin Keys, and other restoration projects in San Francisco Bay and along the California Coast, and learn from other efforts around the nation.
11. **Realization of prior Conservancy goals:** This project builds on the Conservancy’s participation in the development of the *San Francisco Baylands Habitat Goals Report*, which has goals, objectives, and recommendations for restoration in San Francisco, and the Conservancy’s participation in wetland acquisition and restoration projects in San Francisco Bay, including Napa Marsh, Bair Island, and Hamilton/Bel Marin Keys. This authorization builds upon previous authorizations by the Conservancy on August 8, 2002 and January 23, 2003 to disburse a total of up to \$2,500,000 of Conservancy funds towards the South Bay Salt Pond Restoration Project.
12. **Cooperation:** The Conservancy will facilitate the long-term restoration planning, working closely with DFG and FWS. The Conservancy, WCB, and private foundations are cooperatively funding the restoration planning. In addition, over 50 entities have been identified as stakeholders in this restoration project, including local, state, and federal agencies, nongovernmental organizations, special districts, utilities, and the general public.

CONSISTENCY WITH SAN FRANCISCO BAY PLAN:

The South Bay salt ponds are within the permit jurisdiction of the San Francisco Bay Conservation and Development Commission (“BCDC”). The proposed project is considered project planning and exempt from permit requirements.

The project is consistent with the following policies of BCDC's San Francisco Bay Plan:

Part III: The Bay as a Resource

Water Quality

- To the greatest extent feasible, the Bay marshes, mudflats, and water surface area and volume should be maintained and, whenever possible, increased.

Water Surface Area and Volume

- Water circulation in the Bay should be maintained, and improved as much as possible.

Marshes and Mudflats

- To offset possible additional losses of marshes due to necessary filling and to augment the present marshes: (a) former marshes should be restored when possible through removal of existing dikes; (b) in areas selected on the basis of competent ecological study, some new marshes should be created through carefully placed lifts of dredged spoils; and (c) the quality of existing marshes should be improved by appropriate measures whenever possible.

Part IV: Development of the Bay and Shoreline

Public Access

- In addition to the public access to the Bay provided by waterfront parks, beaches, marinas, and fishing piers, maximum feasible access to and along the waterfront and on any permitted fills should be provided in and through every new development in the Bay or on the shoreline, whether it be for housing, industry, port, airport, public facility, wildlife area, or other use, except in cases where public access would be clearly inconsistent with the project because of public safety considerations or significant use conflicts, including unavoidable, significant adverse effects on Bay natural resources. In these cases, in lieu access at another location preferably near the project should be provided.
- Public access to some natural areas should be provided to permit study and enjoyment of these areas. However, some wildlife are sensitive to human intrusion. For this reason, projects in such areas should be carefully evaluated in consultation with appropriate agencies to determine the appropriate location and type of access to be provided.

Salt Ponds and Other Managed Wetlands Around the Bay

- As long as is economically feasible, the salt ponds should be maintained in salt production and the wetlands should be maintained in their present use. Property tax policy should assure that rising property taxes do not force conversion of the ponds and other wetlands to urban development. In addition, the integrity of the salt production system should be respected (i.e., public agencies should not take for other projects any pond or portion of a pond that is a vital part of the production system).
- If, despite these provisions, the owner of the salt ponds or the owner of any managed wetland desires to withdraw any of the ponds or marshes from their present uses, the public should make every effort to buy these lands, breach the existing dikes, and reopen these areas to the Bay. This type of purchase should have a high priority for any public funds available, because opening ponds and managed wetlands to the Bay represents man's last substantial opportunity to enlarge the Bay rather than shrink it. (In some cases, if salt ponds are opened to the Bay, new dikes will have to be built on the landward side of the ponds to provide the flood control protection now being provided by the salt pond dikes.)

COMPLIANCE WITH CEQA:

As a feasibility and planning activity, under 14 California Code of Regulations Section 15262, this project is categorically exempt from CEQA review. Similarly, 14 Cal. Code of Regulations Section 15306 exempts basic data collection, research, and resource-evaluation activities which do not result in a serious or major disturbance to an environmental resource.