

COASTAL CONSERVANCY

Staff Recommendation
December 8, 2005

SANTA CRUZ COASTAL RAIL-TRAIL ACQUISITION

File No. 03-043
Project Manager: Joan Cardellino

RECOMMENDED ACTION: Authorization to disburse up to \$10 million to the Santa Cruz County Regional Transportation Commission for the acquisition of approximately 32 miles of railroad right-of-way known as the Santa Cruz Branch Rail Line in order to preserve suitable portions of the right-of-way for future use as a public pedestrian and bicycle trail and as a segment of the California Coastal Trail.

LOCATION: The Santa Cruz Branch Rail Line extends approximately 32 miles from Davenport in Santa Cruz County to Pajaro in Monterey County. (See Exhibits 1 and 2.)

PROGRAM CATEGORY: Public Access

EXHIBITS

- Exhibit 1: Project Location
 - Exhibit 2: Site map
 - Exhibit 3: Negative Declaration and Initial Study
 - Exhibit 4: Letters of Support and Opposition
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RESOLUTION AND FINDINGS:

Staff recommends that the State Coastal Conservancy adopt the following resolution pursuant to Sections 31400 *et seq.* of the Public Resources Code:

“The State Coastal Conservancy (Conservancy) hereby authorizes disbursement of up to ten million dollars (\$10,000,000) to the Santa Cruz County Regional Transportation Commission (RTC) for acquisition of the property known as the Santa Cruz Branch Rail Line, as shown on Exhibit 2 to the accompanying staff recommendation. This authorization is subject to the following conditions:

1. Prior to the disbursement of any Conservancy funds:
 - a. RTC shall submit for review and approval of the Executive Officer of the

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- Conservancy all title and acquisition documents pertaining to acquisition of the property, including, without limitation, appraisals, environmental assessments, documents of title, agreements for purchase and sale, escrow instructions, and instruments of conveyance.
- b. RTC shall provide to the Executive Officer evidence that all funds necessary to complete the acquisition of the property are available.
2. The purchase price of the property shall not exceed fair market value for the property, as established in an appraisal approved by the Executive Officer.
 3. RTC shall permanently dedicate a strip of land extending along the length of the property for future use as a bicycle and pedestrian trail, except those segments where the placement of the trail on the Property is not reasonably feasible. Dedication shall be through an appropriate instrument approved by the Executive Officer and recorded concurrently with the deed by which RTC acquires title to the property.
 4. RTC shall repay to the Conservancy the principal amount of all funds disbursed to it under this authorization, without interest, as follows:
 - a. If, after the acquisition of the property, RTC receives any state or federal transportation funds that are designated for the acquisition of the property, RTC shall promptly pay the Conservancy in the amount of those funds.
 - b. If RTC has not repaid the total amount of funds disbursed under this authorization by June 30, 2011, RTC shall make annual payments to the Conservancy in the amount of at least one million dollars (\$1,000,000) until RTC has repaid the Conservancy in full. Each annual payment shall be made no later than June 30 of each year, commencing with a payment on June 30, 2011.
 5. RTC shall provide evidence that the California Transportation Commission has approved an amendment pursuant to AB 3090 and the California Department of Transportation has executed a reimbursement agreement under the State Transportation Improvement Project program authorizing reimbursement of ten million dollars to the RTC in fiscal year 2010/2011 or earlier for costs expended in the acquisition of the property.
 6. RTC shall acknowledge Conservancy funding by erecting and maintaining on the property a sign or signs, the location, design and placement of which has been reviewed and approved by the Executive Officer.
 7. If and when portions of the property have been developed as a pedestrian and bicycle trail, on request of the Conservancy, RTC shall permit alignment of a segment of the California Coastal Trail on those portions of the property and permit the placement of signs identifying it as a segment of the California Coastal Trail.”

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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 project is consistent with the purposes and criteria set forth in Chapter 9 of Division 21 of the Public Resources Code (Sections 31400 to 31409) regarding a system of public accessways.
2. The proposed project is consistent with the Project Selection Criteria and Guidelines adopted by the Conservancy on January 24, 2001.
3. The proposed project will serve more than local public needs.
4. The Conservancy has independently reviewed and considered the Negative Declaration for the Santa Cruz Branch Rail Line acquisition, attached to the accompanying staff recommendation as Exhibit 3, and finds that there is no substantial evidence that the project will have a significant effect on the environment, as defined in 14 California Code of Regulations Section 15382”.

PROJECT SUMMARY:

Staff recommends authorization to disburse up to ten million dollars to the Santa Cruz County Regional Transportation Commission (RTC) to acquire 31.8 miles of railroad right-of-way between Davenport and Watsonville for the purpose of preserving suitable portions of the right-of-way for future use as a public pedestrian and bicycle trail and as a segment of the California Coastal Trail. The proposed project provides a valuable opportunity to assist with the acquisition of right-of-way extending along the coast almost the entire length of one of the most popular beach-destination counties in the state. The right-of-way along the railroad branch line ranges in width, but is generally about 50 feet wide, and would provide an opportunity to align the Coastal Trail through Santa Cruz County. Completion of the Coastal Trail is a high priority for the Conservancy.

RTC expects to begin the process of review, study and planning for the development of a public trail once acquisition of the right-of-way is complete. At this point, it is not clear how much trail will ultimately be developed along this corridor. There are some characteristics of the right-of-way, such as bridge abutments, railroad-related improvements and narrow segments of the rail corridor, which will make trail construction a challenge or because of costs or other constraints prevent the placement of a trail in some areas. In addition, RTC will continue to operate rail service on the right-of-way, and future improvements to the rail line may prevent the development of a trail on other segments. However, acquisition of the right-of-way is essential to preserve the opportunity to construct a trail, or a series of trails, along much of the right-of-way, which will expand public access to and along the coast, and ultimately form part of the Coastal Trail.

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The RTC has received substantial funding for the purpose of planning and construction of the Monterey Bay Sanctuary Scenic Trail, which will form the Coastal Trail alignment through Santa Cruz and Monterey Counties. Monterey County has already begun the planning process for its portion of the Sanctuary Trail/Coastal Trail, and Santa Cruz County will coordinate with Monterey County on the alignment across the county line.

Santa Cruz County has many miles of public beach, and many trails connecting to local and regional destinations. The branch line right-of-way would provide access to many of the state and regional beaches, as well as provide a safe and direct bicycle and pedestrian route through the City of Santa Cruz, and the villages of Capitola and Aptos. It would connect the community of Watsonville with other coastal communities in Santa Cruz County, and provide opportunity for non-motorized transportation to the coast. Exhibit 2 shows the branch line alignment and existing public beaches and trails.

In addition to providing a potential alignment for the Coastal Trail, the branch line offers the RTC the possibility of providing other types of recreational or commuter rail services. Limited freight service operates on the line currently. RTC intends to retain that use. Given the size of the right-of-way it appears possible to accommodate safely both active rail uses and a public multi-use trail on a significant portion of the right-of-way. There are no adopted standards for setbacks when designing trails along active rail lines. Many factors are taken into consideration to determine a safe design, including such things as speed and frequency of trail use; topography; vegetation; and barriers such as ditches or fences to separate the trail from the rail line. These issues will be taken up in great detail when the trail planning process gets started. Nonetheless, setbacks typically recommended or used range from 7 to 30 feet under the circumstances likely to be present on the branch line and the right-of-way is, in most locations, sufficiently wide to accommodate a trail with this typical setback.

Union Pacific (UP) and the RTC began active negotiations on the terms of acquisition of the Santa Cruz Branch Line in 2001. In December of 2004 they signed a Letter of Intent offering a purchase price of \$19 million and outlining responsibilities and contingencies for both parties. The RTC has been awarded \$11 million in funding from state Clean Air and Transportation Act (Proposition 116) funds. In addition, in 2000 RTC was awarded \$10 million in Regional Share State Transportation Improvement Program (STIP) funds, administered by the California Transportation Commission (CTC), for the acquisition of the right-of-way. However, because of the state's large budget deficit, in 2003 the governor exercised his authority to redirect approved STIP funds from transportation projects and use them instead for General Fund expenses. As a result, the RTC was notified that its \$10 million STIP award would be rescheduled for payment in fiscal year 2010-11. With such a huge funding gap the RTC would not be able to move forward with acquiring the branch line, and RTC staff asked if the Conservancy could provide a bridge loan until the STIP funds are available.

Normally, STIP funds are disbursed directly for project costs as they arise. However, the RTC will be requesting that the CTC approve an amendment to the STIP award that will authorize the payment of the 10 million dollars, if and when allocated, to RTC as reimbursement for the costs previously incurred by RTC in the acquisition of the property. If CTC approves this amendment (referred to as an "AB 3090 reimbursement"), the payment of the STIP funds to RTC will take

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precedence over any other STIP project scheduled for that year, except for those that have also been previously approved as an AB 3090 reimbursement. Thus, assuming that the AB 3090 reimbursement amendment is approved by CTC, RTC reasonably expects that the STIP funds will be available in fiscal year 2010/11, or soon thereafter.

Based on these circumstances, the Conservancy staff has proposed the following repayment terms for the 10 million dollar reimbursable Conservancy grant. The Conservancy will be reimbursed by the RTC for the full principal amount of the grant. There will be no interest charged on the grant funds. RTC will repay the Conservancy in full when the STIP allocation is available in fiscal year 2010/11 (or earlier or later, as the case may be.) If the RTC is not able to repay the Conservancy in full by June 30, 2011, then it will make annual payments of at least \$1 million, starting on June 30, 2011, and it will continue making annual payments until the grant has been repaid in full. In order to ensure that sufficient funds are reserved for the purpose of making these annual payments to the Conservancy, RTC was also asked to commit to programming, in advance, the necessary funds for the annual payments within its Regional Transportation Improvement Program. The RTC has agreed to these terms, and voted to approve the repayment provisions at its October 20, 2005 meeting.

The repayment of the Conservancy grant funds, as proposed, would *not* be secured by any interest in the right-of-way or by any other security interest or collateral. The AB 3090 agreement, which is a required condition to the proposed authorization, does give priority to the payment of the STIP funds to RTC. However, that priority only comes into play if sufficient funds are allocated in the state budget to the STIP. While it is likely that the STIP funding for the project will be allocated by fiscal year 2010/11, there is no guarantee that this will be the case, and the Conservancy has no direct claim or right to the STIP funds. In short, there is certainly a risk that the only recourse for repayment of the Conservancy's grant may be RTC's unsecured agreement to reimburse the Conservancy.

The RTC is the designated Regional Transportation Planning Agency for Santa Cruz County. The agency consists of twelve members, representing the County of Santa Cruz, the cities of Capitola, Santa Cruz, Scotts Valley and Watsonville, and the Santa Cruz Metropolitan Transit District. The California Department of Transportation serves as an ex-officio member. The RTC has established itself as the Rail/Trail Authority for Santa Cruz County to develop and oversee projects on public rail line right-of-ways in Santa Cruz County.

The RTC has approved a program of projects in the Watsonville to Santa Cruz corridor that includes acquisition of the Santa Cruz Branch Rail Line for future transportation purposes. Also included in the program of projects is a bicycle and pedestrian path along the rail line (Coastal Rail/Trail). In addition, the RTC may consider implementing recreational passenger rail service in the future.

Site Description:

The 31.8 mile Santa Cruz Branch Rail Line extends from Watsonville Junction in Pajaro, Monterey County, to the CEMEX cement plant in Davenport, Santa Cruz County. The track is currently rated as excepted, which means that freight trains can travel no faster than 10 miles per

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hour and passenger trains are not allowed. Union Pacific Railroad currently owns the branch line, and runs freight service typically three days per week.

The width of the right-of-way varies from 30 to 100 feet, with most sections between 40 and 60 feet.

Project History:

RTC staff contacted Conservancy staff in late 2002 with a request for assistance with the acquisition of the branch rail lines. Union Pacific was interested in selling the line to the RTC, and the two parties had been in negotiations since 2001. Initial discussions with the RTC included the need for Conservancy assistance with planning and pre-acquisition costs to match funds already secured. Staff anticipated a grant of approximately \$2.5 million. However; when the \$10 million funding gap emerged due to the postponement of the STIP funds, it became clear that the Conservancy was the only available source of funding for a bridge loan to secure the property.

PROJECT FINANCING:

Direct Acquisition Costs:

Coastal Conservancy reimbursable grant	\$10,000,000
Federal allocation	300,000
Clean Air and Transportation Funds	<u>8,700,000</u>
	\$19,000,000

Indirect Acquisition Costs:

(Title reports, structures assessment, appraisals site assessment, legal consultant, environmental review, etc.)	<u>\$1,200,000</u>
Total Project Cost	\$20,200,000

The Conservancy’s funding contribution is expected to come from a combination of sources: the fiscal year 2003/04 appropriation from the “California Clean Water, Clean Air, Safe Neighborhood Parks and Coastal Protection Fund” (Proposition 40); and the fiscal year 2004/05 appropriation from the “Safe Neighborhood Parks, Clean Water, Clean Air and Coastal Protection Bond Act of 2000” (Proposition 12).

Proposition 40 funding may be used for the acquisition of land resources in accordance with the provisions of the Conservancy’s enabling legislation, Division 21 of the Public Resources Code. As discussed below, the proposed acquisition of the right-of-way for public access purposes is entirely consistent with Chapter 9 of Division 21. Proposition 40 also requires the Conservancy to give priority to grant projects with matching funds. Even without taking into account the fact that the Conservancy grant will be reimbursed, the project is supported by matching funds in the amount of 10.2 million dollars. Once the Conservancy grant has been repaid, the funding for the project will consist entirely of matching funds.

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In general, Proposition 12 funding appropriated to the Conservancy may be used for the acquisition of real property in coastal areas or watersheds pursuant to the Conservancy's enabling legislation. The Proposition 12 funds specifically proposed for financing the acquisition of the railroad right-of-way are also designated for use on Coastal Trail projects and projects within Santa Cruz and Monterey Counties. The proposed project falls squarely within these requirements.

CONSISTENCY WITH CONSERVANCY'S ENABLING LEGISLATION:

The Conservancy's involvement with the proposed acquisition project would be under Chapter 9 (Sections 31400 to 31409) of the Conservancy's enabling legislation, Division 21 of the Public Resources Code, regarding the provision of public coastal access. Pursuant to Section 31400, the Conservancy has a principal role in the implementation of a system of public accessways to and along the coast. By assisting the RTC with funds for the acquisition of the branch rail line, the Conservancy will be enabling the future extension of public access along approximately 30 miles of the coast.

Pursuant to Section 31400.1, the Conservancy may award grants to any public agency to acquire land for access, as long as the accessway that is developed subsequent to acquisition will serve greater than local need. The branch rail line offers the potential for an extensive segment of the Coastal Trail that will provide access to a stretch of the California coast that draws visitors from the region, the state and beyond.

The proposed project is consistent with the Santa Cruz County and Monterey County Local Coastal Program as described in the Consistency with Local Coastal Program Policies below.

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

Consistent with **Goal 1, Objective D**, of the Conservancy's Strategic Plan, the proposed project will result in acquisition of over 31 miles of new right-of-way, portions of which will be preserved for future use as a public access trail and for the Coastal Trail.

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:** Acquisition of the branch rail line is supported by many residents and organizations in Santa Cruz County, including legislators, city councils, the Sierra Club,

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People Power, the Visitors Council, chambers of commerce, and others. See letters of support in Exhibit 4.

4. **Location:** The proposed project would be located primarily within the coastal zone of Santa Cruz and Monterey Counties. The branch rail line is nearly 32 miles long, and it meanders in and out of the coastal zone boundary. Nevertheless, the project will directly serve public coastal access needs through the potential for future development of a pedestrian and bicycle trail along the coast, and perhaps a recreational or commuter rail service.
5. **Need:** Without the Conservancy's reimbursable grant to fill the funding shortfall, the RTC would not be able to acquire the branch line. The RTC does not have capital assets to sell or to use for collateral, nor does it have the ability to pay interest on a loan, so its borrowing opportunities are extremely limited. The Coastal Conservancy is the only source of funding that can provide a large amount of cash in a short time period, not charge interest, and wait several years for repayment.
6. **Greater-than-local interest:** As discussed above, acquisition of nearly 32 miles of potential Coastal Trail alignment in the branch line right-of-way would serve a regional need, and help further the completion of the statewide Coastal Trail.

Additional Criteria

7. **Urgency:** The RTC and UP have been negotiating the acquisition terms for the branch rail line for several years, and have spent enormous effort assembling all the necessary documents required for the sale to be completed. If full funding for acquisition is not made available now, the opportunity for the RTC to purchase the line will be delayed indefinitely, and UP will seek out other buyers.
9. **Leverage:** See the "Project Financing" section above.
12. **Readiness:** With full funding available, escrow should close on the branch line acquisition in the spring of 2006.

CONSISTENCY WITH LOCAL COASTAL PROGRAM POLICIES:

This project is consistent with both the Santa Cruz County General Plan/Local Coastal Plan and the Monterey County Local Coastal Plan.

The circulation element of the Santa Cruz County General Plan includes Local Coastal Plan programs regarding Bikeway System Development and Recreation System Development. Recreation System Development policy 3.8.7 states that bicycle routes should be planned to facilitate access to recreational areas such as regional parks, beach areas, and major tourist facilities. Policy 3.8.10 encourages all new motels, hotels and other visitor accommodations to provide bicycles for use by the patrons. Program f. recommends the County pursue additional state and federal funding for the Bikeway System. Acquisition of the branch rail line will make development of the Bikeway System more extensive than it otherwise would be, and more effective in providing the services needed to fulfill these policies and programs.

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The Monterey County's North County Land Use Plan element of the Local Coastal Program states, as its key policy (policy 6.2): "Public access to the shoreline and along the coast shall be protected and provided, and opportunities for recreational hiking access shall be enhanced." General access policy number 6.3.3 recommends the establishment of a system of trails to enhance general recreational opportunities and to provide public access to and along the shoreline. Acquisition of the branch rail line will open up the possibility that the right of way could be developed for trail uses and connect to the Monterey Bay Sanctuary Scenic Trail and the Coastal Trail

COMPLIANCE WITH CEQA:

The California Environmental Quality Act (CEQA), Public Resources Code Sections 21000 *et seq.*, requires consideration of potential environmental effects of agency actions and approvals, unless exempt. In this case, the Conservancy, as a CEQA responsible agency, is partially funding the acquisition of real property. A CEQA responsible agency considers potential environmental effects of project activities that the agency will approve. 14 California Code of Regulations section 15096(d).

In 2001, the RTC decided to prepare an Initial Study for the rail acquisition, even though acquisition of land with no change in use does not constitute a project as defined by CEQA. However, in the interest of full public disclosure, the RTC prepared the Initial Study.

Based on the Initial Study, on April 4, 2002, the Santa Cruz County Regional Transportation Commission, acting as lead agency for the branch line acquisition project, found that the project, as defined, would not have a significant effect on the environment. A Negative Declaration was prepared and filed on April 8, 2002.

Conservancy staff have reviewed the Initial Study and Negative Declaration, attached to this staff recommendation as Exhibit 3, and concurs that acquisition of the railroad right of way, as a means to preserve the rail corridor for future uses by the public at large would not have a significant effect on the environment. Any future development of the right of way for passenger rail service or pedestrian and bicycle uses along a rail-with-trail corridor will be subject to further review under CEQA.

Upon Conservancy approval of the project, staff will file a Notice of Determination.