

COASTAL CONSERVANCY

Staff Recommendation
November 8, 2007

TOMALES FARM AND DAIRY WEST CONSERVATION EASEMENT

File No. 07-069
Project Manager: Su Corbaley

RECOMMENDED ACTION: Authorization to disburse up to \$750,000 to the Marin Agricultural Land Trust (MALT) to acquire an agricultural conservation easement over 243 acres of the Tomales Farm and Dairy property in west Marin County.

LOCATION: Tomales Farm and Dairy is located on the southern edge of the unincorporated village of Tomales in west Marin County, along the Tomales-Petaluma Road (Exhibit 1).

PROGRAM CATEGORY: Preservation of Coastal Agriculture

EXHIBITS

- Exhibit 1: [Project Location and Site Map](#)
 - Exhibit 2: [Parcel Detail Map](#)
 - Exhibit 3: [Property Images](#)
 - Exhibit 4: [Letters of Support](#)
-

RESOLUTION AND FINDINGS:

Staff recommends that the State Coastal Conservancy adopt the following resolution pursuant to Sections 31150-31156 of the Public Resources Code:

“The State Coastal Conservancy hereby authorizes the disbursement of an amount not to exceed seven hundred fifty thousand dollars (\$750,000) to the Marin Agricultural Land Trust for the acquisition of an agricultural conservation easement over 243 acres of the Tomales Farm and Dairy property (Marin County Assessors Parcel Nos. 102-090-16, 100-090-13 (portion), 102-100-06 (portion), and 102-100-07), subject to the following conditions:

1. Prior to the disbursement of any Conservancy funds for acquisition, the Marin Agricultural Land Trust shall:
 - a. Submit for review and approval of the Executive Officer of the Conservancy (the “Executive Officer”), all relevant acquisition documents, including, without limitation, appraisals, purchase agreements, conservation easements, escrow instructions and documents of title;

- b. Submit for review and approval of the Executive Officer a Baseline Conditions Report certified by the grantor and a Monitoring and Reporting Plan; and
 - c. Provide written evidence to the Executive Officer that all other funds necessary to the acquisition have been obtained.
2. The purchase price of the conservation easement shall not exceed fair market value, as established in an appraisal approved by the Executive Officer of the Conservancy.
 3. The easement interest acquired under this authorization shall be managed and operated in a manner consistent with the purpose of agricultural conservation, open space preservation and natural resource protection. The property interests acquired under this authorization shall be permanently dedicated to those purposes in accordance with Public Resources Code Section 31116(b).
 4. Conservancy funding shall be acknowledged by erecting and maintaining on the property a sign, the design and placement of which has been reviewed and approved by the Executive Officer.”

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 Chapter 4 of Division 21 of the Public Resources Code (Sections 31150 et *seq.*), regarding the Conservancy’s mandate to address the preservation of agricultural lands.
2. The proposed project is consistent with the Project Selection Criteria and Guidelines last updated by the Conservancy on September 20, 2007.
3. The Marin Agricultural Land Trust is a nonprofit organization existing under Section 501(c)(3) of the U.S. Internal Revenue Code, whose purposes, which include the preservation of land for agricultural and open space opportunities, are consistent with Division 21 of the Public Resources Code.”

PROJECT SUMMARY: The proposed authorization would enable the Marin Agricultural Land Trust to acquire an agricultural conservation easement over a 243-acre portion (the “Western TFD”) of the Tomales Farm and Dairy (“TFD”) property situated in Tomales village in west Marin County. The TFD property is comprised of a total of 505.5 acres, owned by Tomales Farm and Dairy, LLC, and includes a homestead, worker residences, buildings associated with dairy operations, and pasture lands for grazing and small-scale crop growing. Of those 505.5 acres, 421 are undeveloped open space pasture. The remaining 84.5 acres consists of dairy operations infrastructure and residential buildings.

The TFD property is formerly known as the Cerini Ranch, having been owned and used as a dairy ranch by the Cerini family since 1925. In late 2005 Mrs. Cerini sold the 505.5-acre dairy farm to Tomales Farm and Dairy LLC.

The principal owners of Tomales Farm and Dairy LLC are both involved in their own commercial agricultural endeavors, each operating certified organic agricultural enterprises. One

grows and produces wine; the other beef and wine. TFD is a partnership that is working to establish a new organic seasonal dairy, on the site of the former Cerini dairy where they will produce farmstead artisan cheese. The Western TFD property will be used to raise organic, grass-fed beef as well as to provide winter forage for dairy cows while they are not being milked.

Under the proposed plan by the current owners for development of TFD, submitted to the County of Marin in 2006, 421 acres of pasture land will be protected by two agricultural conservation easements to be held by MALT and to be acquired in two phases. Phase 1, the acquisition of an easement over 178 acres of pasture land on the eastern portion of the property, was the subject of a Conservancy authorization at its October 12, 2006 meeting (marked as "MALT-1 Easement" on Exhibit 2) and was completed by MALT in December 2006. Phase 2, the subject of this proposed authorization, is the acquisition of an easement over 243 acres of pastureland on the western portion of the property (marked as "MALT-2 Easement" on Exhibit 2). It is expected that the Phase 2 acquisition will be completed by the end of 2007. The sale of the two easements will finance property improvements for reinstating dairy operations and livestock grazing, growing specialty crops on small tracts, and initiating a boutique industry to manufacture an aged hard cheese for distribution and sale. The purchase of the Phase 2 easement over the Western TFD property will complete over two years of negotiations between MALT and Tomales Farm and Dairy LLC.

Following the sale of the Phase 1 easement, the owners reintroduced cattle grazing and installed cattle exclusion fencing along Keyes Creek to initiate riparian regrowth and protect the creek banks. Following the sale of the easement on the Phase 2 portion, the owners will initiate improvements to the land and infrastructure necessary to start their dairy operations on the Western TFD property.

The Western TFD property is currently encumbered by Williamson Act contracts. These Williamson Act contracts ensure that the property will not be taken out of agricultural use. However, the contracts are not perpetual and can be allowed to expire over a period of ten years or, under certain circumstances, can be terminated earlier. Once expired or terminated, the property would not be protected from nonagricultural practices and would, therefore, be vulnerable to denser residential, or estate home, development. The Western TFD property consists of several legal certificate of compliance parcels, with seven associated development rights. The easement will extinguish six of these seven development rights thus eliminating significant development potential and protecting the Highway One scenic viewshed.

The purchase of agricultural land for use as rural estates is one of the most pressing problems facing the agricultural sector in Marin County because it often results in increased property values, making it hard for ranchers to compete with increased lease and purchase prices. More importantly, Marin's agricultural heritage is diminished with every acre removed from production. The purchase of the agricultural conservation easement over the Western TFD property will accomplish many goals: a longtime ranch property, important to the history of Tomales, will remain in production and become the initial stage in establishing a newly vitalized business in the area; the aesthetic scenic value of western Marin will be preserved; and the natural resources and water quality of Walker Creek and Tomales Bay will be protected from increased runoff from development.

The area in which the property is located is subject to significant pressure to develop intensive urban uses. The termination of development rights through the purchase of this easement will

continue agricultural operations on the site, help to support the regional agricultural economy, and conserve and keep available for future production the valuable soils present on the site. The conservation easement also represents an opportunity to establish a development buffer at the margin of existing development.

While still in draft form, the proposed easement will comply with the easement standards adopted by the Conservancy on May 24, 2007 (the "easement standards"). In particular, the easement will require that a baseline report and monitoring plan that are consistent with the easement standards be prepared and approved by the Conservancy prior to close of escrow, and the easement will contain all essential provisions required by the easement standards.

Specific provisions of the proposed easement would limit development of the property to one residence of up to 3,000 square feet and an associated garage up to 700 square feet and prohibit subdivision of the land. The easement would also prohibit recreational off-road vehicle riding; restrict tree harvesting or removal; generally prohibit dumping of wastes, refuse, or debris, except organic matter for agricultural uses; bar practices that cause soil degradation or reduced water quality; restrict surface alteration or excavation; and prohibit permanent separation of water rights from the property. The proposed easement will also provide benefits to the natural environment. The area to be protected under the proposed easement includes the floodplain of Keyes Creek as it drains into Walker Creek, a major tributary to Tomales Bay and important salmon and steelhead habitat. The previous owners allowed the lessee's cattle unlimited access to the wetlands associated with the creek. MALT's easement will include a Creek Conservation Area Management Plan that will require cattle to be kept out of the creek area during wet months. The easement will also allow for creek restoration if grant funds can be obtained for that purpose. The easement would also require annual monitoring by MALT and a report of that monitoring to be provided to the Conservancy.

MALT has an option to purchase the TFD West easement for \$1,000,000, which is substantially below fair market value for the easement, which appraised at \$2,000,000. It is critical that the project close in 2007 as the tax incentives which helped to secure the bargain price will expire at the end of the year.

Site Description: The Tomales Farm and Dairy property is situated along Tomales-Petaluma Road on the southern edge of the village of Tomales. The property consists of a total of 505.5 acres, which is what remains from the Cerini's original holdings – several parcels were sold/deeded over time to local entities such as a church, the school district, and water treatment facility. The entire 505.5-acre property is transected by, or adjacent to, Keyes Creek, which drains to Tomales Creek via Walker Creek, an important tributary to Tomales Bay for water. In the past, Keyes Creek was navigable and served to transport Tomales agricultural products to San Francisco and beyond. Today, Keyes Creek is a seasonal creek which flows during the rainy season. It flows east to west, draining all of the Eastern (Phase 1) TFD acreage, across the parcel on which the dairy and commercial creamery will be located where it eventually becomes wetland habitat on the Western (Phase 2) TFD acreage before joining Walker Creek. See Exhibit 3 for images of the property.

The TFD West property is adjacent to four agricultural properties protected by MALT easements and across the Dillon Beach Road from a ranch that was protected by a MALT easement in July 2007. It lies in one of the most productive areas of Marin County and the presence of a new

organic dairy will help boost agricultural production in the area.

The property consists primarily of productive agricultural land. Approximately fifty percent of the soils on the property have been classified as Farmland of Local Importance by the California Department of Conservation and Natural Resource Conservation Service concurs with this classification of the soils on the property.

Due to impaired water quality that threatens habitat for endangered fishes, reptiles and migrating birds, Tomales Bay has long been recognized by local, state, and federal agencies as deserving of a high level of protection. Many threatened and endangered species inhabit the watershed, including California freshwater shrimp, coho salmon and steelhead trout. In 1981, Tomales Bay became a part of the Gulf of Farallones National Marine Sanctuary, one of three such marine sanctuaries in the state. It supports large numbers of wintering and migrating shorebirds, making it a significant habitat to preserve and protect from degradation. A conservation easement would prevent subdivision of the property and catalyze the development of a certified organic dairy operation that together would help eliminate the threat of reduced scenic values and increasing water quality issues that would result, but would serve to improve water quality runoff by instituting best management and environmentally sound ranching practices.

Project History: As discussed in the Project Summary above, the proposed project is the second Phase of the acquisition by MALT of conservation easements over a total of 421.2 acres of pastureland on the TFD property. On October 12, 2006 the Conservancy authorized a grant of \$500,000 to MALT for the acquisition of a conservation easement over 178 acres of the Eastern TFD property. MALT completed the purchase of that easement in late December 2006.

MALT's agricultural conservation easement program is part of an overall effort to preserve Marin County's agricultural land. Forty percent, or 120,000 acres, of Marin County's privately owned land is used for agriculture. Of the agricultural lands, approximately 32 percent, or nearly 39,000 acres, is protected forever by agricultural conservation easements held by MALT. MALT purchased its first conservation easement in 1983, and now holds 59 agricultural conservation easements.

The Conservancy has a history of interest and involvement in protecting, restoring, and enhancing the agricultural and natural resource values of west Marin. Over the past nearly 20 years, the Conservancy has granted \$7,327,500 to MALT resulting in the protection of 9,140 acres of agricultural lands with significant habitat and natural resource protection elements.

Other west Marin County agriculture projects in which the Conservancy has been involved include the 1989 Conservancy study entitled "Evaluation of Agricultural Land Trusts" in which MALT was acknowledged as a successful, competent nonprofit organization that had met all the goals required by the Conservancy's previous grants, and grants to assist with riparian corridor fencing on several ranch properties.

Additionally, the Conservancy invested in improving the Walker Creek watershed and as such has been involved in projects that affect Walker Creek water quality. In 2001, the Conservancy funded the development of a coordinated permit application for ranchers to utilize to carry out projects on their property that would benefit habitat and water quality entering Walker Creek. In 2004, the Conservancy provided \$600,000 to the Marin County Resource Conservation District to implement that permit program.

PROJECT FINANCING:

Coastal Conservancy	\$750,000
MALT (private donations)	<u>\$250,000</u>
Total Project Cost	\$1,000,000

Staff expects to use funds appropriated to the Conservancy in fiscal year 2007-08 from the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006 (Proposition 84). This funding source may be used for the protection of coastal waters and watersheds, pursuant to the Conservancy’s enabling legislation, Division 21 of the Public Resources Code. The acquisition of an easement over the Western TFD property will serve to stem development of existing rangeland and will provide protection for the coastal waters that cross the property and drain to Tomales Bay. In addition, as discussed below, the project is consistent with Chapter 4 of Division 21.

Proposition 84 also requires that for acquisition projects that protect natural resources, the Conservancy assess whether the project meets criteria specified in Section 75071. The proposed acquisition satisfies two of the specified criteria: the project will contribute to long-term protection of and improvement to the water and biological quality of a stream within the Tomales Bay watershed, a "priority watershed" as identified by the Resources Agency. In addition, the project is supported by private matching funds. MALT has committed to provide \$250,000 towards the acquisition. Further, the landowner is contributing an additional \$1,000,000 in the form of a bargain sale of the easement, which is appraised at a fair market value of \$2,000,000. Finally, as required by Section 75701, Conservancy staff has submitted to the Resources Agency and has posted on the Conservancy’s website an explanation as to how the proposed acquisition meets the criteria of that section.

CONSISTENCY WITH CONSERVANCY'S ENABLING LEGISLATION:

The proposed project is undertaken pursuant to Chapter 4 of Division 21 of the Public Resources Code (Sections 31150-31156), which authorizes the Conservancy to undertake projects and award grants to public and private agencies and organizations for the purpose of agricultural preservation.

Consistent with §31156, the Conservancy is proposing to award a grant to MALT, a nonprofit organization whose primary purpose is the preservation of agricultural lands, which will be used to acquire an agricultural conservation easement over land located in the coastal zone of western Marin County. The easement would prevent the loss of agricultural land to other uses, such as development of estate residences.

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

Consistent with **Goal 6, Objective F**, the proposed project will result in improved water quality draining to Tomales Bay via Walker Creek, a coastal watershed.

Consistent with **Goal 7, Objective A**, the proposed project will increase by 243 acres the acreage of agricultural conservation easements over key coastal farmlands.

Consistent with **Goal 12, Objective A**, the proposed project will increase by 243 acres the acreage of farmland protected from urban encroachment in the nine Bay Area counties.

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

The proposed project is consistent with the Conservancy's Project Selection Criteria and Guidelines last updated on September 20, 2007, 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:** State Senator Carole Migden, State Assemblyman Jared Huffman and Marin County Supervisor Steve Kinsey support this project. See Exhibit 4 for letters of support.
4. **Location:** The proposed easement acquisition is located in the town of Tomales in western Marin County, within the coastal zone.
5. **Need:** Due to its Bay Area location, and its number of development rights that could allow residential development, the Tomales Farm and Dairy property is highly desirable for purchase by non-agricultural buyers. The proposed agricultural easement will permanently protect the agricultural uses of this land, and eliminate the threat for dense residential development in Tomales, by preserving an open space buffer along the southern fringe of Tomales. While MALT has a long history of successful easement acquisitions, their ability to continue the easement program is predicated on ongoing public funding, in addition to private donations. MALT has several projects in development in addition to the proposed project. In order to leverage its own privately donated funds to maximize its program success in Marin County, MALT needs Conservancy funding to complete this acquisition.
6. **Greater-than-local interest:** A vital part of the North Bay greenbelt, agricultural land in Marin County provides open space, scenic vistas, and wildlife habitat. In addition to serving the residents of Marin County by helping to preserve the agricultural history and protecting habitat values, this project serves local area travelers and tourists that visit west Marin to enjoy its unspoiled landscape, and its incredible scenic vistas. Preserving the natural resources of this site and protecting it from development furthers these values.

Additional Criteria

9. **Leverage:** See the “Project Financing” section above. The \$750,000 of Conservancy funds for the easement acquisition will be matched by \$250,000 in private funds, and a \$1,000,000 bargain sale contribution from the property owners.
12. **Readiness:** MALT and Tomales Farm and Dairy have been discussing the acquisition since late 2005; Conservancy authorization of this project will enable MALT to proceed with the acquisition. It is anticipated the transaction will be completed by the end of December 2007.
13. **Realization of prior Conservancy goals:** See the “Project History” section above.
14. **Cooperation:** This project is a cooperative effort among the Conservancy, MALT, and the landowners.

CONSISTENCY WITH LOCAL COASTAL PROGRAM POLICIES: The proposed conservation easement acquisition is consistent with the *County of Marin, Unit II (Northern Marin) Local Coastal Plan (LCP)*. The local coastal program policies of the LCP include alternative methods of preserving agricultural land (found at Agriculture Chapter, Item 7), indicating “[T]he County strongly supports the objectives of the Marin Agricultural Land Trust to protect agricultural lands through . . . purchase . . . of conservation easements on agricultural lands.” By acquiring a conservation easement over the Tomales Farm and Dairy property, this project will achieve the above stated objectives.

COMPLIANCE WITH CEQA: Acquisition of a conservation easement over the Tomales Farm and Dairy property is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) under 14 Cal. Code of Regulations Section 15325 because it involves the transfer of ownership interests in land to preserve open space and to allow continued agricultural use of the property. Staff will file a notice of exemption upon approval of the project.