

COASTAL CONSERVANCY

Staff Recommendation
April 24, 2008

THIRD VALLEY CREEK AND CHICKEN RANCH BEACH RESTORATION PLAN

File No. 07-115-01
Project Manager: Joel Gerwein

RECOMMENDED ACTION: Authorization to disburse up to \$109,000 to the Tomales Bay Watershed Council Foundation to prepare a restoration plan for lower Third Valley Creek and Chicken Ranch Beach at Inverness.

LOCATION: Lower Third Valley Creek and Chicken Ranch Beach, Inverness, Marin County

PROGRAM CATEGORY: Resource Enhancement

EXHIBITS

Exhibit 1: [Project Location and Site Map](#)

Exhibit 2: [Site Photos](#)

Exhibit 3: [Letters of Support](#)

RESOLUTION AND FINDINGS:

Staff recommends that the State Coastal Conservancy adopt the following resolution pursuant to Sections 31251-31270 of the Public Resources Code:

“The State Coastal Conservancy hereby authorizes the disbursement of an amount not to exceed one hundred nine thousand dollars (\$109,000) to the Tomales Bay Watershed Council Foundation to develop a restoration plan to improve water quality and habitat in Third Valley Creek and at Chicken Ranch Beach and to reduce erosion at Chicken Ranch Beach, subject to the condition that, prior to disbursement of any funds, the Council shall submit for the review and approval of the Executive Officer of the Conservancy a work plan, schedule, budget, and the names of any contractors to be employed for preparation of the restoration plan.”

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 Project Selection Criteria and Guidelines, last updated by the Conservancy on September 20, 2007.
2. The proposed authorization is consistent with the purposes and objectives of Chapter 6 of Division 21 of the Public Resources Code, regarding coastal resource enhancement projects.

3. The project area is identified by the Marin County Local Coastal Program as requiring public action to resolve existing resource protection problems.
4. The Tomales Bay Watershed Council Foundation is a non-profit organization existing under section 501(c)(3) of the Internal Revenue Service code whose purposes are consistent with Division 21 of the Public Resources Code.”

PROJECT SUMMARY:

The proposed project involves the preparation of a restoration plan for lower Third Valley Creek and Chicken Ranch Beach in the town of Inverness in Marin County (Exhibit 1). The objectives of the plan will include enhancing water quality and habitat at the beach and in lower Third Valley Creek, and reducing erosion at the county-owned beach. The project will be an important step in resolving an 18-year old controversy around land use at the site, discussed below.

Chicken Ranch Beach has been a source of political controversy since 1966, when Marin County approved a proposal by Larry Marks to build a marina there. The resulting legal battles ended in the California Supreme Court, with a landmark decision that California’s tidelands are subject to the public trust (Marks v. Whitney, 1971). Controversy arose over the beach again in 1989, when an adjacent landowner altered wetlands and the creek channel to reduce flooding problems. The Coastal Commission took legal action, resulting in a 1990 settlement that clarified drainage procedures and land use issues. The same landowner excavated a drainage channel across the beach to protect the property from flooding in 1998 (See “Project Summary” Section above). This landowner sold the property in 2003. The current landowner is cooperating with restoration planning, and installed a new septic system in 2007 to replace a failed system that was polluting the creek and the Bay. However, this property is currently for sale, and the project would further the long-term resolution of conflicting demands for flood control vs. beach maintenance and water quality.

A scoping document prepared by Phillip Williams and Associates in 2005 for the Environmental Action Committee of West Marin identified opportunities to restore wetlands, expand tidal influence, and improve water quality in the project area. The proposed project would develop a plan to realize these restoration opportunities. The project would include an assessment of historical and current physical conditions and biological resources in the project area, including topography, hydrology, geomorphology, riparian and wetland vegetation, and wildlife. These studies will allow for the development of a model to predict how proposed physical changes may affect future conditions and enable restoration of the project area. The assessment of historical and current conditions in the project area will include the identification of planning, land-use, and infrastructure constraints that may limit restoration opportunities. Public outreach will be conducted during the project to gather input on desired restoration objectives and design features, in order to build support for the plan and minimize design iterations. Restoration design alternatives will then be developed based on the goals and objectives, conceptual model, and restoration constraints. A permitting strategy for the restoration will be developed and the relevant regulatory agencies will be consulted.

Implementation of the restoration plan would improve wetland function, water quality, flood control, and beach maintenance in the project area. Part of the historic marsh at the mouth of Third Valley Creek was filled in the 1950s with materials dredged from Tomales Bay. Removal

of fill material and realignment of the creek would allow the creek to be reconnected to its floodplain, increasing wetland area and level of function. The plan will help determine how best to improve water quality by increased tidal flushing of areas that are currently stagnant, notably a channel known as Channel B that was excavated by a landowner in 1998 without a permit, in order to protect upstream property from flooding. Currently, Channel B runs across the popular beach area and frequently violates water quality guidelines for bacteria; it continues to pose a public health risk. In addition to reducing a public health risk, wetland restoration would filter sediments and nutrients that currently enter Tomales Bay, enhancing the beneficial uses of this critical coastal area. Flood control for adjacent properties could be improved by the restoration, and the need to periodically dredge the channel could be reduced. Because the channel has aggraded, it does not currently provide good drainage for surrounding areas. Future implementation of the plan could result in improved drainage for adjacent properties and increased flood and sediment storage in restored floodplain wetlands.

When Channel B was first excavated, the resulting water flows washed out the central portion of the beach. Because of concerns about loss of the beach, 40 local citizens turned out with hand tools to restore the drainage's natural location. Marin County sheriffs halted this work. Beach erosion could be reduced by reducing or eliminating flows through Channel B. Planning would also examine the possibility of using sediment delivered by the restored creek channel during flood flows for beach nourishment.

The Tomales Bay Watershed Council ("Council") is well qualified to undertake this project through its non-profit, the Tomales Bay Watershed Council Foundation. The Council has been engaged in water quality monitoring and planning for Chicken Ranch Beach and Third Valley Creek since 2003 and has assembled a group of local residents, agency representatives, and technical specialists who are working together on the project. The Council has an excellent track record in coordinating planning, having overseen the preparation of the Tomales Bay Watershed Stewardship Plan (2003) and the Tomales Bay Integrated Coastal Water Management Plan (2007).

Site Description: Chicken Ranch Beach and lower Third Valley Creek are located on Tomales Bay in the town of Inverness, Marin County. The beach, located at the east end of the project area, is a 4 acre county-owned park and a popular destination for locals and visitors. It is used for swimming, nature observation, and as a kayaking access site. Third Valley Creek flows into Tomales Bay at the beach. Upstream, the project area consists of a State Lands Commission parcel and private land. A private residence and the Inverness Valley Inn are located adjacent to the potential restoration area. A narrow corridor of riparian vegetation, dominated by alders, willows, and Himalaya blackberry, is present along the creek.

The project's value is improved by its focus on portions of Tomales Bay. Tomales Bay is an area of tremendous biological diversity and great beauty (see "Consistency with Conservancy's Project Selection Criteria and Guidelines" section). Tidal wetlands restored through future implementation of this plan will be part of a complex of approximately 1,100 acres of tidal wetlands around Tomales Bay, including approximately 500 acres of tidal wetlands currently being restored as part of the Giacomini Wetland Restoration. The riparian, wetland, aquatic, and estuarine habitat in the project area will provide valuable habitat for a variety of plants and wildlife. Waterfowl use the project area, including sandpipers, herons, and cormorants. California Black Rail (*Lateralis jamaicensis coturniculus*) occurs in Tomales Bay and implementation of this restoration plan would provide potential habitat for this state listed

species. Third Valley Creek provides potential habitat for two federally listed fish species, steelhead (*Oncorhynchus mykiss*- Coastal California ESU) and tidewater goby (*Eucyclogobius newberryi*). Resident rainbow trout are present in Third Valley Creek upstream of the project area. Wetland restoration and improved tidal flows at the mouth of Third Valley Creek would enhance habitat value for fish in the project area, although upstream habitat will not be accessible to fish due to the presence of a culvert under Sir Francis Drake Blvd that is more than 200 feet in length. Third Valley Creek also provides potential habitat for California red-legged frog (*Rana aurora draytonii*). Most of Third Valley Creek’s 360 acre watershed is part of Point Reyes National Seashore or managed as open space by the Inverness Public Utility District.

Project History: The Coastal Conservancy has made substantial commitments over the years to protecting and enhancing Tomales Bay and its 232-square-mile watershed. The Bay and its watershed are remarkable for their beauty and diversity of wildlife. Tomales Bay is recognized in the international Convention on Wetlands (“Ramsar Convention”) as a Wetland of International Importance.

Through acquisitions and easements, the Conservancy, largely in partnership with the Marin Agricultural Land Trust, has helped protect from development thousands of acres of agricultural land in West Marin. The Conservancy has also funded the expansion of public access in the area, including grants for the Tomales Bay trailhead in 1989 and for the Point Reyes Barrier-Free Access Project in 1990. The Conservancy has also consistently supported improved watershed management through the funding of numerous projects on ranch lands throughout West Marin.

A Conservancy authorization to the Marin Resource Conservation District (“RCD”) in 2001 enabled the RCD and the Tomales Bay Watershed Council to complete a watershed assessment for Tomales Bay. The Conservancy also granted \$660,000 in 2001 to the RCD to streamline watershed permitting and implement the Tomales Bay Watershed Enhancement Program, guided by 16 restoration practices outlined by the Marin Coastal Watersheds Permit Coordination Program.

The history of legal controversy surrounding Third Valley Creek and Chicken Ranch Beach is discussed in the “Project Summary” section above. The project would further the long-term resolution of conflicting demands for flood control vs. beach maintenance and water quality.

PROJECT FINANCING:

Coastal Conservancy	\$109,000
Marin County	20,000
Inverness Foundation	5,000
Direct community fundraising	<u>5,940</u>

Total Project Cost **\$139,940**

The Conservancy funds for this project are expected to derive from the 05/06 appropriation to the Conservancy from the Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002 (Proposition 50). Proposition 50 funds are appropriated to the Conservancy to restore and protect coastal watersheds through projects undertaken pursuant to the Conservancy’s enabling legislation (Division 21 of the Public Resources Code) to restore water

and land resources (Water Code § 79570). Proposition 50 funds may be used as proposed here for planning and permitting associated with restoration (Water Code §79570); the project will complete the planning process for restoration of coastal wetland and beach resources. The project is consistent with the Conservancy's enabling legislation as described below. Finally, as required by Proposition 50, the proposed project is consistent with local and regional watershed plans, as discussed below (Water Code §79507).

CONSISTENCY WITH CONSERVANCY'S ENABLING LEGISLATION:

The proposed project is undertaken pursuant to Chapter 6 of Division 21 of the Public Resources Code (§§ 31251-31270), as follows:

Pursuant to Section 31251, the Conservancy may award grants to non-profit organizations for the purpose of enhancement of coastal resources that have suffered loss of natural values because of human-induced events. Consistent with this section, the proposed authorization provides funds to the Council to plan for the restoration of natural values in the project area that have suffered because of the filling of wetlands in the project area and channelization of Third Valley Creek.

Pursuant to Section 31252, all areas proposed for resource enhancement should be identified in a certified local coastal plan or program as requiring public action to resolve existing or potential resource problems. The proposed project areas are identified in the Unit II Local Coastal Plan for Marin County (LCP), as discussed in the "Consistency with Local Coastal Program Policies" section below.

Pursuant to Section 31253, "[the] Conservancy may provide up to the total of the cost of any coastal resource enhancement project, including the state or local share of federally supported projects...." after an assessment of funding generally available for coastal resource enhancement projects, the fiscal resources of the applicant and the urgency of the project relative to other eligible coastal resource enhancement projects. The proposed contribution by the Conservancy was determined based on application of priority criteria, as discussed below, and after taking into account other available resources and the matching contributions to the project by other funding sources.

CONSISTENCY WITH CONSERVANCY'S 2007 STRATEGIC PLAN GOAL(S) & OBJECTIVE(S):

Consistent with **Goal 5, Objective A** of the Conservancy's 2007 Strategic Plan, the proposed project will result in a plan for the restoration and enhancement of a coastal stream and associated wetlands.

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:** The project enjoys broad public support, as evidenced by the success of community fundraising efforts. Fundraisers for Chicken Ranch Beach Restoration have been well attended by members of the community and have raised almost \$6,000 (See "Project Financing" above). Supporters include the Point Reyes National Seashore, the Environmental Action Committee of West Marin, the Inverness Association, State Senator Carole Migden, former State Assemblymember Joe Nation, and Marin County supervisor Steve Kinsey. Support letters are included in Exhibit 3.
4. **Location:** The proposed project would be located within the coastal zone of Marin County (See Exhibit 1).
5. **Need:** The proposed authorization would provide a much-needed addition to County and private funds, and is necessary to allow the restoration planning process to go forward.
6. **Greater-than-local interest:** Chicken Ranch Beach provides valuable access to Tomales Bay for local residents and a significant number of the four million tourists who come to Tomales Bay each year. In addition to its recreational value, the project area has great biological value due to its location on Tomales Bay. Tomales Bay is not only part of the Golden Gate Biosphere Reserve and a California Critical Coastal Area, but in 2002, it was nominated as a "Wetland of International Importance" under an international treaty called the Convention on Wetlands (commonly known as the Ramsar Convention). Tomales Bay is also one of 16 wetland areas that qualify for inclusion as a wetland of regional importance under the Western Hemisphere Shorebird Reserve Network because of its large number of wintering and migrating shorebirds. The bay represents the second largest Pacific Herring spawning estuary in the state of California and is home to some of the state's largest populations of birds such as bufflehead (*Bucephala albeola*), black brant (*Branta bernicla*), red knot (*Calidris canutus*), and riparian associates such as saltmarsh common yellow-throat (*Geothlypis trichas sinuosa*; Sacramento USFWS Species of Concern and California Species of Concern). The water quality problems in Tomales Bay could cause widespread adverse effects to these and other important wildlife populations that use the bay for all or part of their life cycles, including critical stages such as breeding or the early stages of development (such as for fish nurseries). The project would be an important step towards improving water quality in the Bay, and providing improved habitat adjacent to the Bay.

Additional Criteria

7. **Urgency:** Amelioration of water quality problems in Tomales Bay and expansion of habitat for federally- and state-listed wildlife species are a high priority for the State. Water quality problems have led to Tomales Bay being listed as "threatened" under the State's Shellfish Protection Act in 1994, and impaired under Section 303(d) of the Clean Water Act. Preparation of this plan is necessary to identify actions to reduce the influx of contaminants into Tomales Bay from Third Valley Creek.

8. **Resolution of more than one issue:** In addition to planning the restoration of wetlands and riparian habitat, the project would further the resolution of a long-standing conflict between beachgoers concerned about beach maintenance and property owners concerned about flooding.
9. **Leverage:** See the “Project Financing” section above.
10. **Conflict resolution:** The project would further the resolution of a long-standing conflict between beachgoers concerned about beach maintenance and property owners concerned about flooding.
11. **Readiness:** The Council has been involved with management planning at Chicken Ranch Beach for a number of years. The Council has involved a diverse group of stakeholders, including the County, the Inverness Public Utility District, adjacent landowners, local residents, and representatives of state agencies and of the Point Reyes National Seashore. The Council is ready to initiate assessment studies and focused public outreach to begin the restoration planning process.
12. **Realization of prior Conservancy goals:** See “Project History” above. The project is an important step towards enhancing the natural resources of the Tomales Bay watershed, as well as resolving land use conflicts in the project area.
13. **Cooperation:** The Council has obtained funding for the project from County government and local residents, and has involved a diverse group of stakeholders in planning, including the County, the Inverness Public Utility District, adjacent landowners, local residents, and representatives of state agencies and of the Point Reyes National Seashore.

CONSISTENCY WITH LOCAL COASTAL PROGRAM POLICIES:

The project area is within the Coastal Zone of Marin County. The LCP, certified on April 1, 1981, identifies Marin’s numerous coastal zone streams and creeks as sensitive habitats for many species of birds and fish, with special emphasis on streams that flow into Tomales Bay (LCP, pp. 65-66). The LCP also cites water quality and sediment pollution in Tomales Bay as significant problems requiring amelioration. The LCP encourages “responsible agencies to continue working on identifying sources of pollution in Tomales Bay and to take steps to eliminate them” (LCP, pp. 72). The LCP also identifies sedimentation in streams as a significant problem that “destroys fish habitat, increases flood hazards, and retards groundwater recharge” (LCP, pp. 67). Though not specifically mentioned, Third Valley Creek meets the criteria of coastal streams established within the LCP, and is therefore subject to the protections, goals, and objectives afforded by Section 30231 of the Coastal Act which establishes that “the biological productivity and the quality of coastal waters...shall be maintained and, where feasible, restored...” (LCP, p. 56). The project addresses problems of water quality, flooding, and habitat degradation in a coastal stream tributary to Tomales Bay, consistent with the resource problem identified in the LCP.

The LCP identifies freshwater inflows, sedimentation, water pollution, and protection of wetland and riparian habitats as the key concerns for protecting the aquatic resources of Tomales Bay ecosystem (LCP, pp. 66-68). Because preparation of the plan is an important step towards enhancing water quality in Tomales Bay, and expanding riparian and wetland habitat where it has been lost, the proposed project is entirely consistent with the LCP Policies.

CONSISTENCY WITH LOCAL WATERSHED MANAGEMENT PLAN AND REGIONAL WATER QUALITY CONTROL PLAN:

The Third Valley Creek and Chicken Ranch Beach Enhancement Planning Project is consistent with, and furthers the goals of, the Tomales Bay Watershed Stewardship Plan, prepared by the Tomales Bay Watershed Council in July 2003. The project is consistent with Goal A of the Tomales Bay Watershed Stewardship Plan, as implementation of the plan would improve water quality in Tomales Bay. The project is also consistent with Goal B of the Tomales Bay Watershed Stewardship Plan, as implementation of the plan would improve the integrity of natural habitats and native communities.

The project is also consistent with the Tomales Bay Integrated Coastal Watershed Management Plan (ICWMP), completed in September 2007. The ICWMP is a cooperative effort by the Tomales Bay Watershed Council, Bolinas Community Public Utilities District, Inverness Public Utility District, Marin Municipal Water District, and North Marin Water District to identify management strategies and regional and projects that meet multiple objectives for the Tomales Bay region. The project is consistent with ICWMP Objective 1, as implementation of the plan would improve water quality in Tomales Bay. The project is consistent with ICWMP Objective 5, as implementation of the plan would improve streams and riparian areas for native species. The project is consistent with ICWMP Objective 6, as implementation of the plan would improve potential habitats of special status species.

The proposed project is also consistent with the Water Quality Control Plan for the San Francisco Bay Basin (adopted by the Regional Water Quality Control Board Central Coast Region in 1995 and reviewed every three years) in that it constitutes an important step towards the enhancement of fish and wildlife habitat in coastal watersheds and wetlands, including potential habitat for federally-listed species (steelhead, tidewater goby, and California red-legged frog), and thereby protect and improve the following beneficial uses:

- Cold Freshwater Habitat
- Wildlife Habitat

The proposed project would also be an important step towards achieving the water quality objectives identified in the Water Quality Control Plan for nutrients, and suspended sediment loads and discharge rates by reducing inputs of fine sediment and nutrients to Tomales Bay.

COMPLIANCE WITH CEQA:

Preparation of the restoration plan involves only data gathering, planning, and feasibility analyses for possible future actions that have not yet been authorized or approved by the Conservancy or another agency and is thus statutorily exempt from the requirement to prepare an

Environmental Impact Report or Negative Declaration under the California Environmental Quality Act (CEQA) pursuant to 14 California Code of Regulations Section 15262. The plan will, however, consider environmental factors, as required by Section 15262. In addition, data collection and resource evaluation activities conducted for this project are categorically exempt from CEQA pursuant to 14 California Code of Regulations Section 15306. This categorical exemption applies to activities that consist of basic data collection, research, experimental management, and resource evaluation activities which do not result in a serious or major disturbance to an environmental resource.

Staff will file a Notice of Exemption upon Conservancy approval.