COASTAL CONSERVANCY

Staff Recommendation
September 24, 2009

SOUTH SAN FRANCISCO BAY SALT POND RESTORATION: PHASE I IMPLEMENTATION

File No. 02-070-02
Project Managers: Brenda Buxton and Ann Buell

RECOMMENDED ACTION: Modify previous Conservancy authorizations relating to the implementation of Phase I of the South San Francisco Bay Salt Pond Restoration Project by redirecting $1,550,000 of funds from the Pond SF2 managed pond habitat construction project to the Eden Landing tidal wetland construction project at Ponds E8A/9/8X and by authorizing the acceptance and disbursement of up to $1,000,000 in U.S. Fish and Wildlife Service National Coastal Wetlands Conservation Grant Program funds for the Eden Landing E8A/9/8X project.

LOCATION: San Francisco Bay, South of the San Mateo Bridge, in Alameda, San Mateo, and Santa Clara Counties (Exhibit 1 of attached November 6, 2008 Staff Recommendation).

PROGRAM CATEGORY: San Francisco Bay Area Conservancy

EXHIBITS

Exhibit 1: November 6, 2008 Staff Recommendation

Exhibit 2: June 4, 2009 Staff Recommendation

RESOLUTION AND FINDINGS:

Staff recommends that the State Coastal Conservancy adopt the following resolution pursuant to Sections 31160-31165 of the Public Resources Code:

"The State Coastal Conservancy hereby modifies its authorization of November 6, 2008 so that the disbursement of up to $1,550,000 (one million five hundred fifty thousand dollars) to the U.S. Fish and Wildlife Service for construction of habitat and public access facilities at Pond SF2 and Bedwell Bayfront Park in San Mateo County is re-directed to Ducks Unlimited, Inc. for the construction of a tidal wetland restoration project at Eden Landing Ponds E8A/9/8X in Alameda County, as part of the implementation of Phase I of the South San Francisco Bay Salt Pond Restoration Project. The Conservancy also hereby modifies its authorization of June 4, 2009 by authorizing the acceptance of a grant in the amount of up to $1,000,000 (one million dollars) from the U. S. Fish and Wildlife Service, under its National Coastal Wetlands Conservation Grant Program, and the disbursement of up to the total amount of that grant to the County of Alameda for the

tidal wetland restoration project at Eden Landing Ponds E8A/9/8X. The disbursement of funds under these modified authorizations shall be subject to the following conditions:

1. Prior to the disbursement of any funds for the project, the grantee shall submit for the review and approval of the Conservancy's Executive Officer a work program, including schedule and budget, and the names of any contractors it intends to use to complete the project.
2. In carrying out the project, the grantee shall comply with all applicable mitigation and monitoring measures that are identified in the South Bay Salt Pond Restoration Project Environmental Impact Statement and Environmental Impact Report (EIS/R) that was certified with findings by the California Department of Fish and Game on March 11, 2008.
3. The grantee shall comply with all terms and conditions imposed by any federal grant that is the source of funding for the grantee, which may, as applicable, include terms and conditions of:
    a. The American Recovery and Reinvestment Act (ARRA) or that may be necessary to enable the Conservancy to comply with terms and conditions of the ARRA grant.
    b. The U. S. Fish and Wildlife Service National Coastal Wetlands Conservation Grant Program or that may be necessary to enable the Conservancy to comply with terms and conditions of the National Coastal Wetlands Conservation Grant Program grant.
4. Prior to commencing project work, the grantee shall enter into and record an agreement, approved by the Conservancy's Executive Officer, that allows for access to undertake the project work and that is sufficient to protect the public interest and provide for maintenance of the project."

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 remains consistent with the current Project Selection Criteria and Guidelines, last updated by the Conservancy on September 20, 2007.
2. The proposed authorization remains consistent with the purposes and objectives of Chapter 4.5 of Division 21 of the Public Resources Code, regarding the Conservancy's mandate to address the resource and recreational goals of San Francisco Bay Area.
3. Ducks Unlimited, Inc. is a nonprofit organization existing under Section 501(c)(3) of the U.S. Internal Revenue Code, whose purposes are consistent with Division 21 of the Public Resources Code."

PROJECT SUMMARY:

The proposed authorization modifies two previous Conservancy authorizations, both related to construction of Phase 1 implementation projects under the South Bay Salt Pond authorizations. The two modifications will enable the Conservancy to fully fund the construction of the Eden Landing tidal wetland restoration project at Ponds E8A/9/8X using Conservancy, federal and local resources, by providing State matching funds needed under one federal grant and by authorizing the acceptance and disbursement of another federal grant for the project.

Modification of the November 6, 2008 Authorization - To Provide ARRA Matching Funds

On November 6, 2008, the Conservancy authorized $2.05 million in funding of habitat and public access construction in order to implement the first phase of restoration of 15,100 acres of former Cargill salt production ponds in South San Francisco Bay as part of the South Bay Salt Pond (SBSP) Restoration Project (Exhibit 1). At that meeting, the Conservancy also authorized funding for other aspects of the SBSP Restoration Project including the applied studies as part of the Adaptive Management Program, funding for project management, public outreach and technical support services, and additional funding for the South Bay Shoreline Study.

Subsequent to this November 2008 authorization, the Conservancy applied for and was awarded $5,898,862 in America Recovery and Reinvestment Act (ARRA) grant funds through NOAA's Coastal and Marine Restoration Grant Program for three tidal restoration projects that were also part of Phase I implementation of the South Bay Salt Pond Restoration Project. The Conservancy authorized acceptance and disbursement of these funds on June 4, 2009 and the attached staff recommendation (Exhibit 2) describes the three projects proposed in the application, project partners, and matching funds.

At the time of the grant application for ARRA-NOAA funds, in order to make the application as competitive as possible, the Conservancy included state matching funds for one of the three tidal restoration projects: Eden Landing Ponds E8A/9/8X. Conservancy staff originally anticipated that the match would come from the Wildlife Conservation Board (WCB). However, due to the State bond funding freeze, which still continues for new projects, these funds are unavailable. Once the bond freeze for new projects is removed, Conservancy staff will continue to work with WCB staff to fund other SBSP Restoration Project Phase I projects. Until that time, projects need to be funded within existing constraints.

In order to provide the state match for the Eden Landing project, Conservancy staff recommends that the Conservancy substitute its own funds, which had been originally authorized for the managed pond habitat construction project at Pond SF2 and a project overlook at Bedwell Bayfront Park in San Mateo County on November 6, 2008. Re-directing these funds will enable the Conservancy to meet the conditions of the ARRA-NOAA grant award.

The U.S. Fish and Wildlife Service (FWS) currently anticipates that it will be able to complete the habitat portion of the Pond SF2 and the Bedwell Bayfront Park overlook project without the $1.55 million from the Conservancy for several reasons. Construction costs at Pond SF2 have turned out to be lower than estimated and federal appropriations

to the FWS have been higher than expected. Also, the FWS will still be able to use the $500,000 in Conservancy funding remaining from the November 2008 authorization for the public access improvements at Pond SF2.

Modification of the June 4, 2009 Authorization - To Accept and Disburse FWS National Coastal Wetlands Conservation Grant Program Grant

On June 4, 2009, the Conservancy authorized the acceptance of the ARRA-NOAA grant funds for the tidal wetland restoration project at Eden Landing Ponds E8A/9/8X. The "Project Financing" section of the staff recommendation (Exhibit 2) identified a number of different sources of additional funding for the project, including a "National Coastal Wetlands Conservation Program Grant" in the amount of $1,000,000. As of June 4, 2009, the FWS had notified the Conservancy that its proposal for funding for the Eden Landing E8A/9/8X project was successful, but the Conservancy was not yet able to meet the matching funds requirement of the grant at that time, due to the state bond funding freeze. After finding alternative sources of matching funds for this FWS grant program, including the ARRA-NOAA funds, Conservancy staff submitted a revised budget to the FWS and was notified in August 2009 that the revised proposal was acceptable and still qualified for the full award. An obligation letter for $1,000,000 will be issued in the fall of 2009.

Now that the FWS National Coastal Wetlands Conservation Grant Program grant is expected to soon be fully secured, this staff recommendation proposes that the Conservancy specifically authorize the acceptance and disbursement of that grant for the Eden Landing tidal wetland restoration project.

With these re-directed Conservancy funds, matching funds from our project partners, and the nearly $6 million under the ARRA-NOAA Coastal Restoration Grant, three out of the five public access projects and four out of the six habitat projects planned as Phase I implementation for SBSP Restoration Project will be underway in the next twelve months.

PROJECT FINANCING:

Under the proposed authorization the overall funding for the tidal wetland restoration project at Eden Landing Ponds E8A/9/8X remains largely the same as identified in the June 4, 2009 staff recommendation. As proposed in this staff recommendation, $1.6 million of anticipated WCB funding would be replaced by $1.55 million of previously-authorized SCC funding for SBSP Phase I implementation. In addition, the project total costs have decreased from $7,126,845 to $7,057,464:

Eden Landing Ponds E8A/9/8X

Conservancy funds	$1,550,000
NOAA-ARRA CMRGP grant	$3,165,864
FWS National Coastal Wetlands Conservation Grant Program grant	$1,000,000
Alameda County	$ 761,600
National Fish and Wildlife Foundation	$ 580,000
Total Project Cost	**$7,057,464**

The expected source of funding for the Conservancy funds is the fiscal year 2006-07 appropriation from the "Water Security, Clean Drinking Water, Coastal and Beach Protection Fund of 2002" (Proposition 50). The Eden Landing tidal wetland restoration construction project has the same general purpose and characteristics as the Pond SF2 enhancement project, both of which serve to carry out the objectives of the South Bay Salt Pond Restoration Project. Thus, the use of Proposition 50 funds for the former project is consistent with these funding sources for the same reasons that the latter project was considered consistent, as detailed in the November 6, 2008 staff recommendation (Exhibit 1). There are additional matching funds for this project: $300,000 from the Resources Legacy Fund for applied studies and $704,764 from Alameda County for project design and engineering.

The goal of the FWS National Coastal Wetlands Conservation Grant Program is the long-term conservation of coastal wetland ecosystems. Funding from the FWS grant program may be applied toward restoration, enhancement, or management activities. Restoration of 630 acres of former salt ponds at Eden Landing Ecological Reserve to fully tidal wetlands as part of Phase I of the South Bay Salt Pond Restoration Project is consistent with this goal.

CONSISTENCY WITH CONSERVANCY'S ENABLING LEGISLATION, 2007 STRATEGIC PLAN GOAL(S) & OBJECTIVE(S), AND PROJECT SELECTION CRITERIA & GUIDELINES AND WITH THE SAN FRANCISCO BAY PLAN:

The proposed authorization does not alter the Eden Landing E8A/9/8X tidal wetland restoration project from the description and other aspects of the project detailed in the June 4, 2009 staff recommendation (Exhibit 2). It simply modifies the manner in which that project is funded. Accordingly, for the same reasons specified in the June 4, 2009 staff recommendation, the Eden Landing E8A/9/8X project, as modified by the proposed authorization, remains consistent with the Conservancy's enabling legislation, 2007 Strategic Plan Goal(s) & Objective(s), and Project Selection Criteria & Guidelines and with the San Francisco Bay Conservation and Development Commission San Francisco Bay Plan.

COMPLIANCE WITH CEQA:

As noted immediately above, the proposed authorization does not alter the physical nature of the Eden Landing E8A/9/8X tidal wetland restoration project. The modification in the form of funding likewise does not change: the manner in which the project will be undertaken; the environmental effects of the project or of all of the Phase I implementation projects; or any project changes or feasible mitigation measures or alternatives that might avoid or reduce those effects. Under the June 4, 2009, staff recommendation, the project impacts, mitigation measures and environmental documentation, including the Environmental Impact Statement/Environmental Impact Report for Phase I of the South Bay Salt Pond Restoration Project, were fully presented and discussed. Based on its review of that information, the Conservancy adopted all findings required under CEQA for the Eden Landing E8A/9/8X project. Since the proposed authorization does not alter the project in any way that would change the environmental effects or any required mitigation, no further findings are required under CEQA.