COASTAL CONSERVANCY

Staff Recommendation
March 29, 2012

BARBONI RANCH HICKS VALLEY II CONSERVATION EASEMENT

Project No. 11-012-01
Project Manager: Su Corbaley

RECOMMENDED ACTION: Authorization to redirect $1,000,000 of Conservancy funds, previously granted to the Marin Agricultural Land Trust for the Corda Ranch Conservation Easement Project, toward the acquisition of agricultural conservation easements over the 1,194-acre Barboni Ranch in Marin County.

LOCATION: Hicks Valley, west Marin County (Exhibit 1)

PROGRAM CATEGORY: San Francisco Bay Conservancy Program

EXHIBITS

Exhibit 1: Project Location and Site Map

Exhibit 2: MALT Protected Lands

Exhibit 3: 204-acre CRLF Mitigation Area

Exhibit 4: Conservation Areas

Exhibit 5: Site Photographs

Exhibit 6: Upland Habitat Goals Biodiversity Portfolio Report

Exhibit 7: Project Letters

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 May 27, 2010 authorization for the disbursement of one million dollars ($1,000,000) to the Marin Agricultural Land Trust (MALT) for the acquisition of a conservation easement over the Corda Ranch, by permitting the use of those funds by MALT for the acquisition of two separate conservation easements, collectively restricting the use of the entire Barboni Ranch in Marin County (APN Nos. 125-020-11, -12, -13, -14), as shown on Exhibit 1 to the accompanying staff recommendation.

The modified authorization is subject to the following conditions:

1. Prior to the expenditure of any Conservancy funds for the acquisition, MALT shall submit

for review and approval of the Executive Officer of the Conservancy (the "Executive Officer"):

a. All relevant acquisition documents, including, without limitation, appraisals, purchase agreements, conservation easements, environmental assessments, escrow instructions and documents of title.

b. A Baseline Conditions Report certified by the grantor and a Monitoring and Reporting Plan.

c. Documentation that all other funds necessary to the acquisition have been obtained.

2. If acquisition of the two conservation easements over the Barboni Ranch property is to occur in two separate phases, MALT may expend the Conservancy funds for acquisition of one of the two conservation easements, covering a portion of the Barboni Ranch property, provided that MALT and the property owner have executed an instrument, approved by the Executive Officer as to substance and form, by which the parties agree that MALT shall have the irrevocable right to purchase a conservation easement over the remainder of the property under specified terms.

3. The purchase price of the conservation easements shall not exceed fair market value, as established in an appraisal approved by the Executive Officer.

4. The easement interests 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).

5. 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 project is consistent with the current Project Selection Criteria and Guidelines.

2. The proposed authorization is consistent with the purposes and objectives of Chapter 4.5 of Division 21 of the Public Resources Code, regarding the preservation of agricultural lands.

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 uses, are consistent with Division 21 of the Public Resources Code."

PROJECT SUMMARY:

On May 27, 2010, the Conservancy authorized a $1,000,000 grant to the Marin Agricultural Land Trust (MALT) towards the acquisition of a conservation easement over the Corda Ranch, outside of Novato. However, MALT received an unexpected grant from the U. S. Natural

Resources Conservation Service for the Corda Ranch project and no Conservancy funds were needed or provided to MALT for the Corda Ranch easement acquisition. The proposed authorization seeks Conservancy modification of its May 27, 2010 authorization so that MALT may use the funds originally intended for the Corda Ranch for the acquisition of two conservation easements over the Barboni Ranch.

The proposed authorization would enable MALT to acquire two separate agricultural conservation easements, collectively covering approximately 1,194 acres of the Barboni Ranch in Hick's Valley in western Marin County. The Barboni Ranch is located adjacent to two existing MALT agricultural conservation easements and will result in a block of over 9,000 acres of contiguous protected property in three separate watersheds (Walker Creek, Salmon Creek, and San Antonio Creek) (Exhibit 2). The purchase of a conservation easement over the Barboni Ranch will accomplish many goals and give rise to many public benefits. These include the conservation of an additional 1,194 acres of agricultural land, the prevention of subdivision, the preservation of scenic open space, wildlife habitat, and the cultural aspects of the Bay Area's agricultural heritage, the protection of natural resources, which include potential habitat for the California red-legged frog (CRLF), oak woodlands and the water quality of Soulajule Reservoir, and the continuation of productive economic uses of private property. Soulajule Reservoir is important for managing and sustaining adequate water flow to Walker Creek for salmonids.

The sale of conservation easements will allow the Barboni family to complete its estate planning and to continue ranch operations on the property. The ranch has been owned by the Barboni family since the early 1930's and is currently owned by Bill Barboni, Sr. and managed by Bill Barboni, Jr., who raises certified-organic grass fed beef, sheep, and meat goats on the property. The ranch was originally two separate dairy ranches (the Bassi Ranch and Home Ranch, acquired approximately 30 years apart). Because the ranch remains two separate, salable properties, MALT is proposing to purchase two agricultural conservation easements over the two properties (746 acres and 448 acres, respectively) (Exhibit 1). Two easements offer flexibility for future sustainability and management options; the whole of the property could stay in its current ownership or one or both ranches could be sold to other family members, or if needed, be sold outside the family. Once the conservation easements are in place, even if sold, the property could only be used consistent with the conservation purposes.

As detailed in the "Financing" section, below, MALT expects to fund the acquisition of the two conservation easements through a variety of sources, including the Conservancy, the Wildlife Conservation Board (WCB), under its Oak Woodlands Program, and private donations. In addition, MALT also expects to utilize mitigation funding from the California Department of Transportation, District Four (Caltrans), which will be provided to the project through an anticipated future grant to the Conservancy. Caltrans has a project to add High Occupancy Vehicle lanes to U.S. Highway 101 from the junction of State Route 37 in the City of Novato to just north of the Corona Road overcrossing in the City of Petaluma, also known as "the Marin Sonoma Narrows", or "MSN". The U.S. Fish and Wildlife Service ("USFWS") has required Caltrans to provide mitigation to offset impacts from the MSN project, in the form of 204 acres of CRLF dispersal habitat. Because portions of the Barboni Ranch fall within USFWS-designated CRLF Critical Habitat Unit 12, as well as partially within Unit Marin 2, USFWS and Caltrans have selected a 204-acre portion of the Barboni Ranch as suitable for the required MSN mitigation. It is expected that Caltrans will formally agree to provide funding for the Barboni Ranch project through a grant to the Conservancy. (This grant is expected to include costs of

acquisition, Conservancy oversight costs, and MALT's cost for long-term monitoring and management of the property). The 204 acres that would be protected as CRLF habitat is within the 746-acre Home Ranch part of the Barboni Ranch (Exhibit 3) and would be protected as required by Caltrans under the terms of the conservation easement covering the Home Ranch. Since this funding has not yet been finalized, Conservancy staff is seeking authorization to disburse only Conservancy funds to MALT at this time and will, at a future board meeting, seek authorization to accept and disburse the Caltrans mitigation funding to MALT, when the Caltrans grant is formalized.

As a result of timing of the Conservancy funds, which will revert as of June 30, 2012, if not expended, the fact that Caltrans funding is not yet formally committed, and the landowner's needs, it may be necessary for MALT to carry out the project in two phases: the acquisition of an easement on the Bassi Ranch using Conservancy funds, and the subsequent acquisition of an easement on the Home Ranch, using funds from Caltrans or other sources. Conservancy funding is critical to completing the acquisition of easements over both ranch properties, as one will not be sold without the other. Thus, as a condition of using Conservancy funds for the acquisition of a conservation easement over the Bassi Ranch, the Conservancy would require that MALT execute a binding agreement with the property owner for the acquisition of a conservation easement on the Home Ranch under specified terms. MALT has committed to obtaining additional funding from other sources for the Home Ranch easement, if the Caltrans mitigation funds fail to materialize.

While still in draft form, the proposed Barboni Ranch easements will comply with the easement standards adopted by the Conservancy on May 24, 2007 (the "easement standards"). In particular, the easements 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.

The conservation easements will also generally restrict future uses of the Barboni Ranch to agricultural and existing residential uses, prohibit subdivision of the land, prohibit recreational off-road vehicle riding; restrict tree harvesting or removal within specified distances (depending on slope) from the banks of creeks without prior approval of MALT; protect the oak woodland resources on the property, prohibit dumping of wastes, refuse, or debris; bar practices that cause soil degradation or reduced water quality; restrict surface alteration or excavation; and impose stricter limitations on Creek Conservation Areas (delineated in Exhibit 4) and require associated management plans that will exclude cattle from riparian corridors during the wet season. If Caltrans mitigation funding is provided, the 204-acre mitigation portion of the Home Ranch would be further restricted to its existing use (grazing) and have separate maintenance, management, monitoring, and enforcement requirements.

Finally, each of the easements will include an affirmative agriculture clause that will require continuous, productive agricultural use of the property. This provision will also require an Agricultural Management Plan (AMP) that will be written by a certified rangeland manager and approved by MALT and the funding agencies. If the landowner finds that it is unable to carry on productive agricultural uses of the property according to the AMP, the clause allows for possible changes in the AMP if approved by MALT, or if not, then requires that a suitable third party (such as a lessee) be located to carry on productive agricultural uses.

MALT is a nonprofit 501(c)(3) organization whose purpose is farmland preservation. Since 1980, when it was founded by a coalition of ranchers and environmentalists to preserve farmland in Marin County, MALT has acquired agricultural conservation easements and permanently protected over 44,000 acres of land on 68 family farms and ranches.

Site Description: The Barboni Ranch is located approximately 9 miles from the city of Petaluma, in the upper reaches of the Tomales Bay watershed, along the Arroyo Sausal drainage in the Walker Creek watershed. The ranch is made up of two former dairies and contains necessary agricultural infrastructure such as housing, barns, fencing, water impoundments, and developed springs. It is visible from the Point Reyes Petaluma Road, and encompasses nearly 600 acres of pastures and grassland and more than 594 acres of mixed broadleaf evergreen forest, oak woodlands, and shrub habitats. The property is comprised of 423 acres of oak woodlands (Mantane Hardwoods), 185 acres of California Bay Forest (with mixed oaks), 674 acres of pastures and grassland, 19 acres of Douglas Fir Forest and several acres of riparian corridors and associated wetland habitats. Oak species present on the property are Coast Live oak, Valley oak, California Black oak, and Oregon White oak.

The terrain on the property includes gentle rolling grasslands and oak woodlands, two seasonal two creeks and a wetland pond. The creeks drain to the Soulajule Reservoir, part of which transects the two tracts of land proposed for easements under the project (Exhibit 5).

Its location near Petaluma, and its graceful beauty, makes this area highly desirable as the location for exclusive estate homes.

A biological assessment completed in the spring of 2010 identified 15 special status species on the property and noted that 23 others are likely to exist given the high quality habitats of the ranch. These species included a previously unknown pair of nesting Northern Spotted Owl, Cooper's hawk, Burrowing Owl, Grasshopper Sparrow, California Red Legged Frog, River Otter, American Badger, and Southwestern Pond Turtle.

The Bay Area Upland Habitat Goals project ranks the property as highly suitable for conservation in an area that is essential to the goals of the project (Exhibit 6).

Project History: In May 2010, the Conservancy authorized a $1,000,000 grant to MALT towards the acquisition of a conservation easement over the Corda Ranch, outside of Novato. However, late in that project MALT received an unexpected grant from the Natural Resources Conservation Service that could only be used for the Corda Ranch project. Thus, the Conservancy funding was not needed, and no Conservancy funds were disbursed. At that time, MALT proposed the Barboni project as a possible substitution for the Corda project and staff concurred that the Barboni project provided similar conservation benefits.

In 2002, the Conservancy provided funding toward a conservation easement on the adjacent 1,310-acre ranch owned by Bill Barboni, Jr., who manages the Bassi and Home Ranches (see Exhibit 2). Bill Jr. is a certified organic and humane rancher who has shown excellent land stewardship: in addition to raising his herds organically, he has fenced out riparian areas to control grazing in sensitive habitats. When the opportunity arose for MALT to work with the Barboni family again, MALT approached the Conservancy to build off the past project.

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. MALT purchased its first conservation easement in 1983, and

now holds 68 agricultural conservation easements. The Conservancy has, since the early 1980s, assisted in protecting, restoring, and enhancing the agricultural and natural resource values of west Marin. In 1983, with support from the Conservancy, MALT acquired its first agricultural easement. Since that time, the Conservancy has granted $8,705,100 to MALT to assist in the acquisition of 19 easement totaling 12,401 acres.

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 501(c)(3) 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.

PROJECT FINANCING

Coastal Conservancy (redirected from Corda Ranch project)	$1,000,000
Coastal Conservancy (Caltrans)	714,000
Wildlife Conservation Board (WCB)	600,000
MALT (Public and private fundraising)	1,372,000
Total:	**$3,686,000**

Funds previously authorized by the Conservancy for the Corda Ranch Conservation Easement Project, which would be applied to the proposed Barboni Ranch project under this authorization, were appropriated to the San Francisco Bay Conservancy Program 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 watersheds, including projects to prevent contamination and degradation of coastal waters and watersheds and projects to protect and restore the natural habitat values of coastal waters and lands undertaken pursuant the Conservancy's enabling legislation, Division 21 of the Public Resources Code. The acquisition of the easement over the Barboni Ranch property is consistent with the Conservancy's enabling legislation, as discussed below, and will serve to protect San Francisco Bay Area resources, including natural watershed habitat, and stem development of existing agricultural lands and open space that will provide protection for the waters that cross the property and drain to San Francisco Bay.

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 three of the specified criteria. Specifically, the project will link adjacent protected lands to create a corridor of 9,000 acres of preserved agriculture, protected open spaces and habitat that provide for movement of wildlife. It will contribute to long-term protection of and improvement to the water and biological quality of the Soulajule Reservoir, a necessary water source for sustained water flows to Walker Creek, a "priority watershed", which drains to Tomales Bay, also a high priority water body. Furthermore, the project is supported by private matching funds to be provided by MALT to complete the acquisition and provide for

stewardship expenses. 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.

As discussed in the Project Summary section, above, the Conservancy anticipates the receipt of a grant from Caltrans. Caltrans mitigation funding is expected to be applied in the amount of approximately $714,000 to acquire an easement on the Home Ranch property, which will protect 204 acres of that property as CRLF dispersal habitat. Once the specific details of this grant are finalized, the Conservancy will be asked at a future meeting to authorize the acceptance and disbursement of the Caltrans acquisition grant funds, and additional Caltrans mitigation grant funding, in an amount that has not yet been determined, for related project development activities, long term maintenance and management by MALT, and oversight and compliance by Conservancy staff.

If the project is carried out in phases, Conservancy funds will be used only toward the acquisition of the Bassi Ranch easement, and will be matched with MALT or WCB funds, or a combination thereof.

CONSISTENCY WITH CONSERVANCY'S ENABLING LEGISLATION:

The proposed project is undertaken pursuant to Chapter 4.5 of Division 21 of the Public Resources Code (Sections 31160-31165) which authorizes the Conservancy to undertake projects and award grants in the nine-county San Francisco Bay Area to public and private agencies and organizations.

Consistent with §31162, the proposed agricultural conservation easement is located in Marin County, one of the nine bay-area counties, and will help to achieve several of the primary goals of the San Francisco Bay Area Conservancy Program by protecting open space, scenic areas, and wildlife habitats (§31162(b)), and assisting with the implementation of the Marin County General Plan (§31162(c)). The Marin County General Plan includes a specific policy supporting the acquisition of perpetual agricultural conservation easements. Acquisition of an agricultural conservation easement on the Barboni property will ensure that the open space character of this property will be forever protected.

In addition, the project satisfies all of the five criteria for determining project priority under §31163(c), as follows: 1) the project is fully consistent with and supported by adopted local plans, including the *County of Marin, Unit II (Northern Marin) Local Coastal Plan* as described in the Consistency with Local Coastal Program Policies below; 2) the project serves a multi-jurisdictional constituency, since it will preserve open space and scenic areas for the enjoyment of both local residents and visitors who come from across the region and the nation to the area in which the project is located; 3) the project can be implemented in a timely fashion: once funded, the easement acquisition is expected to occur within 5 months; 4) in the event the project is not implemented promptly, the opportunity for completion of the purchase of the property and the associated grant of the easement may be lost and potential development could occur; and 5) the Conservancy funding for the easement acquisition is matched by MALT with private donations.

CONSISTENCY WITH CONSERVANCY'S 2007

STRATEGIC PLAN GOAL(S) & OBJECTIVE(S):

Consistent with **Goal 10, Objective D**, the proposed project will increase by 1,194 acres the acreage of uplands wildlife habitat and significant open space.

Consistent with **Goal 12, Objective A**, the proposed project will increase by 1,194 acres the acreage of farmland protected from urban encroachment.

Consistent with **Goal 12, Objective B**, the proposed project will increase by 1,194 acres the acreage of rangeland protected 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 November 10, 2011, 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 is supported by Congresswoman Lynn Woolsey, State Assemblyman Jarred Huffman, Marin County Supervisor Steve Kinsey. See Exhibit 7 for their letters of support.
4. **Location:** The proposed easement acquisition is located approximately 9 miles from Petaluma, within the nine-county Bay Area. The easement will benefit the San Francisco Bay region by protecting scenic and agricultural values of western Marin County and by protecting the water quality of Soulajule Reservoir and Walker Creek.
5. **Need:** Due to its location near the city of Petaluma, the Barboni property is very attractive to non-agricultural buyers for one very large or several smaller estates; existing zoning could, in theory, allow up to 19 home sites. The proposed agricultural easement will permanently protect the agricultural uses of this land. Also, while MALT typically provides between thirty-three and fifty percent of the cost of easement acquisitions, the Conservancy funds are critical to the project. If no Conservancy funds are available, it would take a significant amount of time for MALT to raise the rest of the required funds. The Barboni family is trying to protect the two properties before the family elder, who turned 90 in 2010, passes away in order to avoid estate complications.
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 drinking water, this project serves local area travelers and tourists that visit west Marin to enjoy its unspoiled landscape, and incredible scenic values (see Exhibit 5). Preserving the natural resources of this site and protecting it from development furthers these values.

7. **Sea level rise vulnerability:** The project is located on property that is at least 240 feet above sea level and is thus in an area that is not vulnerable to impacts due to the projected rise in sea level resulting from global climate change.

Additional Criteria

10. **Leverage:** See the "Project Financing" section above.

13. **Readiness:** The draft of easement is nearly finalized, and an appraisal has been completed. The project is expected to be completed by June 2012.

14. **Realization of prior Conservancy goals:** See "Project History" above.

15. **Cooperation:** This project is a cooperative effort among the Conservancy, MALT, Caltrans, USFWS, WCB and the landowners.

17. **Vulnerability from climate change impacts other than sea level rise:** Most current climate models predict that Marin County will be fairly resilient to climate change. However, MALT's agricultural conservation easements take a flexible approach to allowable agricultural uses in order to allow adaptation to future climactic change. MALT also may require weed management plans where necessary to control invasive species that may trigger conversion of grasslands due to climate related pressures.

CONSISTENCY WITH LOCAL COASTAL PROGRAM POLICIES:

The acquisition by MALT of a conservation easement on the Barboni Ranch 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), which provides that the "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 Barboni Ranch, this project will achieve the above stated objectives.

Additionally, MALT's agricultural conservation easement program is part of an overall coordinated effort with local government to preserve Marin County's agricultural industry and agricultural land and has the support of the Marin County Board of Supervisors, the Marin County Resource Conservation District, Marin County Farm Bureau, and other local non-profit organizations. The County of Marin supports the protection and preservation of agricultural land uses, agricultural land, and open land through Objectives, Policies, and Implementation Programs as expressed in the Natural Systems and Agricultural Element of the Marin Countywide Plan adopted November 6, 2007, including, inter alia, the preservation of agricultural lands and resources by agricultural conservation easements (Goal AG-I, Policy AG.1.2 and Implementing Program AG-1.d and AG-1.l). Further, Marin County has enacted a Right-to-Farm ordinance, Marin County Code Chapter 23.03, the policy of which is to"conserve, protect, enhance and encourage agricultural operations within the county" and upholding the Right-to-Farm ordinance is one of the Implementing Programs of the Goals of the County Wide Plan (AG-1.j). (See also Cal. Civ. Code Section 3482.5).

COMPLIANCE WITH CEQA:

The proposed authorization covers the acquisition of a conservation easement over the Bassi Ranch portion of the Barboni Ranch. That acquisition, which involves no potential CRLF mitigation dispersal habitat, 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 allow for continued agricultural use of the property. Staff will file a Notice of Exemption upon Conservancy approval.