

COASTAL CONSERVANCY

Staff Recommendation
February 14, 2013

**BEL MARIN KEYS UNIT V –PARCEL 07
REVISED IMPLEMENTATION PLAN**

File No. 99-108-02
Project Manager: Tom Gandesbery

RECOMMENDED ACTION: Consideration and possible Conservancy approval of a revised implementation plan for the disposition of “Parcel 07” of the Bel Marin Keys Unit V property (Marin County Assessor’s Parcel Number 171-157-07) directing transfer of the property to the County of Marin for habitat, open space and public access.

LOCATION: Marin County

PROGRAM CATEGORY: San Francisco Bay Area Conservancy

EXHIBITS

- Exhibit 1: [Revised Implementation Plan](#)
 - Exhibit 2: [Project Location](#)
 - Exhibit 3: [Previous Staff Recommendation, April 24, 2008](#)
 - Exhibit 4: [Letter from ABAG SF Bay Trail Project](#)
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RESOLUTION AND FINDINGS:

Staff recommends that the State Coastal Conservancy adopt the following resolution pursuant to Sections 31160 *et seq.* of the Public Resources Code:

The State Coastal Conservancy hereby:

1. Approves the Revised Implementation Plan set forth as Exhibit 1 to the accompanying staff recommendation to implement disposition of Parcel 07 (Marin County Assessor’s Parcel Number 171-157-07) of the Bel Marin Keys Unit V property.
2. Directs the Department of General Services to transfer title to Parcel 07 to the County of Marin, at no cost in accordance with the Revised Implementation Plan subject to the following conditions:

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- (a) A public access easement shall be retained or dedicated over a portion of the property, in a location and upon terms acceptable to the Executive Officer of the Conservancy for purposes of developing a segment of the San Francisco Bay Trail; and
 - (b) The uses of the Parcel 07 shall be restricted open space, habitat and public access.
3. Directs the Executive Officer to review and approve the terms and conditions of the reservation of a public access easement as well as all other documents relating to the transfer and to take such other action as is necessary to complete the disposition of Parcel 07.

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 Conservancy adopted a restoration plan for the Bel Marin Keys Unit V (BMKV) expansion of the Hamilton Wetland Restoration Project (“Project”) in 2004, and Parcel 07 is unnecessary for the purposes of the Project. Therefore, pursuant to the provisions of the restoration plan and Public Resources Code Section 31107, the property may be conveyed out of state ownership;
- 2. Transfer of Parcel 07 pursuant to the Revised Implementation Plan is consistent with the authority of the Conservancy under Section 31107 of the Public Resources Code and with the Property Disposition Procedures developed by the Conservancy and the Department of General Services pursuant to Section 31107.1 of the Public Resources Code.”
- 3. The transfer of Parcel 07 is consistent with the purposes and objectives of the San Francisco Bay Area Conservancy Program set forth in Chapter 4.5 (Sections 31160-31165) of Division 21 of the Public Resources Code.
- 4. Retention of the public access easement and completion of property disposition is consistent with the Project Selection Criteria and Guidelines last updated on November 10, 2011.

PROJECT SUMMARY:

Summary: Conservancy staff recommends approval of the Revised Implementation Plan set forth as Exhibit 1, which provides for transfer of an approximately eight-acre portion of the State-owned Bel Marin Keys Unit V (BMKV) property. The 1600-acre BMKV property was purchased by the Conservancy for the purpose of wetland restoration. However, the eight-acre portion of BMKV known as Parcel 07 is a remnant parcel that is not needed for the wetland restoration project. Parcel 07 has value as open space and habitat as well as for location of a segment of the San Francisco Bay Trail (“Bay Trail”). Parcel 07 presents management costs, including potential liability for the state, and can be better managed by a local governmental or nonprofit entity. The property is located near the City of Novato in Marin County and is Assessor’s Parcel Number 157-171-07. (Exhibits 1 and 2)

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In April 24, 2008, the Conservancy adopted a Property Disposition Plan authorizing disposition of Parcel 07 by sale, with the Conservancy retaining an easement for public access. (Exhibit 3) At that time, the value of the property was estimated as \$500,000. However, In June 2008, the Conservancy commissioned an appraisal that estimated Parcel 07's market value at \$350,000. The area in which the site is located is zoned by the County to allow one single-family dwelling per every two acres. Given that the property is slightly less than eight acres in total size and that some of that is wetlands, a likely development scenario would be three residential lots. Since the property has not been subdivided, the buyer would have to apply to the County for subdivision approval, as well secure connections to sewer, water and other utilities. In light of the low market value, the need for a Bay Trail connection and because Parcel 07 was part of a larger property acquisition for which the project purpose was conservation of natural lands, staff investigated the possibility of transferring the property at no cost to a public entity or nonprofit organization for purposes of open space, habitat and public access. The site has natural features that make it highly suitable for an open-space park and problematic from a development standpoint (see Site Description, below). Staff contacted various public entities and organizations, including the California Department of Parks and Recreation, the City of Novato, a local land trust, and Marin County. Of these, Marin County was interested in owning and managing Parcel 07 for open space, habitat and public access.

Site Description: The subject property is 7.93 acres in size and is located immediately north of Bel Marin Keys Blvd. The site is bordered to the north by Novato Creek, to the west by dredge material drying ponds owned by the Bel Marin Keys Community Services District and to the east by the gates to the Bel Marin Keys community (Exhibit 2). The parcel is therefore separated from the rest of BMKV by the road, and through environmental planning and analysis, was found to be unnecessary for the restoration project. In its current condition, the parcel has been the subject of illegal dumping and vandalism. The property features a small hill and seasonal wetlands and is bordered to the north by the banks of Novato Creek. The site once contained a dwelling believed to be part of the larger farm and ranch that once occupied the area, however all that remains of the home is a foundation and driveway. Surrounding the former home site are mature oak trees and several large eucalyptus. The site affords vistas of the baylands to the north, the Marin Hills, salt marshes and other open space. Given these attributes, the site would be an appropriate open-space park. The property can be used as a park for passive recreation and potentially as a stopover park and resting spot on the future Bay Trail. The site is also adjacent to Pacheco Pond, a county-owned wildlife refuge. The public visit Pacheco Pond via a parking lot that is south and slightly east of the site. Therefore, there is a potential to link these two county-owned holdings with a short trail and crosswalk, so that the public could park at the Pond and access the site by just a short walk (approximately 650 feet).

Project History: The subject property is one of nine parcels that make up the BMKV property. The Conservancy purchased the subject property as part of a large acquisition in 2002 for the purpose of expanding the existing Hamilton Wetland Restoration Project. The entire Conservancy-administered property ("the BMKV property") consists of assessor's parcel numbers: 157-171-07 (the subject parcel) as well as APNs: 157-172-06; 157-172-07; 157-172-08; 157-172-35; 157-172-36; 157-172-37; 157-172- 38 and 157-570-09. The Hamilton Wetland Restoration Project is located immediately south of the larger BMKV site (Exhibit 2). The

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Hamilton Wetland Restoration Project is being carried out by the U.S. Army Corps of Engineers and Conservancy on property owned by the Conservancy. An approximately 700-acre portion of the BMKV property is leased for oat hay production; however, the subject parcel is not farmed, nor has it been farmed for many decades. The subject parcel was originally part of a large farm, but was physically split from the BMKV farm by Bel Marin Keys Boulevard, which was constructed in conjunction with the adjacent Bel Marin Keys residential community in the 1960s (Exhibit 1).

In 2004 the Conservancy completed a Supplemental Environmental Impact Statement and Report for the restoration of BMKV as an expansion of the existing Hamilton Wetland Restoration Project. The plan is available on the Conservancy's website. One outcome of restoration planning was that the Conservancy, the Corps, and its contractors agreed that the subject parcel would not be part of the restoration project. This is largely because the parcel is not contiguous with the other BMKV parcels and is unsuitable for other project uses. Most problematic from an open space-planning perspective is that the parcel is located across a busy roadway from the BMKV restoration site. Uses such as parking and interpretation for the wetland project were considered; however, the restoration plan concludes that there are superior parking and public access points. In 2007 Marin County and City of Novato undertook a planning process to extend the Bay Trail north of Hamilton. That plan identified this parcel as one of the areas for a possible future extension of the San Francisco Bay Trail, but the feasibility study did not adopt a preferred route. In order to support this potential use, the Conservancy would retain a public access easement or dedication across the eastern end of the property to allow for possible future alignment of the San Francisco Bay Trail. That plan identified this parcel as an area for a future extension of the Bay Trail. Therefore, the Conservancy would retain a public access easement across the eastern end of the property to allow for future development of the Bay Trail. The specifications for such an easement have not been drafted but would likely reserve an area approximately 50 feet in width. Staff of the San Francisco Bay Trail Project, a program of the Association of Bay Area Governments, advocates for retaining the parcel in public ownership because of the advantages of locating the Bay Trail on publically-owned land rather than private property. (Exhibit 4).

Disposition Process: The Conservancy will follow the attached Revised Implementation Plan, which identifies the location and alignment needed for the Bay Trail easement to be retained by the Conservancy. The Plan provides for a no-cost transfer to the County of Marin except that the County will be responsible for any closing costs.

PROJECT FINANCING:

Project Cost: None (The County will pay closing costs.)

CONSISTENCY WITH CONSERVANCY'S ENABLING LEGISLATION:

Bel Marin Keys Unit V was acquired pursuant to Section 31251 of Division 21 of the Public Resources Code, which enables the Conservancy to assemble parcels of land which have suffered a loss of natural and scenic values to improve resource management. The Conservancy

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also found acquisition of BMKV to be consistent with Sections 31160-31163 of the Public Resource Code, which directs the Conservancy to address resource goals in the San Francisco Bay Area.

Public Resources Code Section 31162(d) authorizes the Conservancy to undertake projects and award grants that promote, assist and enhance projects that provide open space and natural areas that are accessible to urban populations for recreational and educational purposes. The transfer of Parcel 07 to the County of Marin for open space, habitat and public access is consistent with this authority because the County of Marin will manage this property under its parks and open space program, which has goals which are congruent with those of the Conservancy. Specifically Marin County Parks' mission is "...dedicated to educating, inspiring, and engaging the people of Marin in the shared commitment of preserving, protecting, and enriching the natural beauty of Marin's parks and open spaces, and providing recreational opportunities for the enjoyment of all generations."

In addition, Public Resources Code Section 31162(a) authorizes the Conservancy to undertake projects and award grants for purposes of improving public access to and around the bay through completion of a regional bay trail system consistent with the rights of private property owners and without having a significant adverse impact on agricultural operations and environmentally sensitive areas and wildlife, and consistent with locally and regionally adopted master plans and general plans. Transferring Parcel 07 to Marin County will enable development and operation of an important connecting segment of the Bay Trail without adversely impacting private property, agriculture, environmentally sensitive areas or wildlife. The Bay Trail is supported by numerous local and regional plans, including the Bay Trail Plan prepared by the Association of Bay Area Governments. The trail will also be consistent with the 2007 Marin Countywide Plan (General Plan) which includes a trails elements that contains the following policy:***TRL-1.d: Establish Regional Trail Connections. Strive to complete regional trail systems in Marin County, including the Bay Area Ridge Trail, the San Francisco Bay Trail, and the California State Coastal Trail.***

Public Resources Code Section 31107 requires that the Director of General Services transfer any land acquired pursuant to Division 21 when so requested by the Conservancy, pursuant to an implementation plan approved by the Conservancy. Pursuant to Section 31107.1 of the Public Resources Code, the Conservancy and the Department of General Services have established procedures to ensure that Conservancy property transactions "are carried out efficiently and equitably and with proper notice to the public." The Revised Implementation Plan is consistent with the Conservancy's authority to dispose of property acquired pursuant to Division 21 and procedures established with the Department of General Services.

**CONSISTENCY WITH CONSERVANCY'S 2013
STRATEGIC PLAN GOAL(S) & OBJECTIVE(S):**

The transfer of the property is consistent with **Objective 11 A** in that it will assist Marin County to protect , seasonal wetland habitat as well as **Objective 11 B** in that the uplands on the site will be protected from development in perpetuity.

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

The proposed project is consistent with the Conservancy's Project Selection Criteria and Guidelines 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 CSD represents the roughly 700 homes within the Bel Marin Keys Community, which is directly adjacent to Parcel 07. Also the San Francisco Bay Trail Project supports extension of the Bay Trail through Parcel 07 as the only viable route for the Bay Trail through the area, and strongly supports public ownership of the property.
4. **Location:** The subject property is located on Novato Creek, across the road from the entrance to the larger BMKV property, which has a street address of 836 Bel Marin Keys Boulevard (Exhibit 2). The property is located in Marin County and is near but outside the city limits of the City of Novato.
5. **Need:** The subject property presents an on-going cost, including potential liability to the state and is a drain on fiscal and staff resources.
6. **Greater-than-local interest:** Other than Conservancy staff time, the sale will not cost the state anything and will relieve it of an ongoing management responsibility. The Hamilton-BMKV wetland restoration project is one of the largest and most ambitious projects of its kind anywhere in the country. Disposal of this property will help the Conservancy to focus staff resources on completion of the restoration project.
7. **Sea Level Rise Vulnerability:** The site includes land at near sea-level as well as a small hill that rises well above sea level. Therefore, while some of the property is subject to flooding, especially under future sea level rise projections, the property will still be of value as park and open space. Also the property will be managed for open space and habitat protection so rising sea levels are not expected to impinge on the use of the property.

Additional Criteria

8. **Urgency:** The property represents an on-going management responsibility to the Conservancy. Disposal of the parcel will reduce the state's exposure and property management costs. Staff has been working with the County of Marin on the terms of transfer for the last two years
9. **Resolution of more than one issue:** Disposal of the property will reduce on-going costs to the state while protecting the property for public purposes.

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CONSISTENCY WITH SAN FRANCISCO BAY PLAN:

The subject property is located on Novato Creek but upstream and beyond the limit of BCDC jurisdiction.

COMPLIANCE WITH CEQA: The proposed transfer of Parcel 07 to Marin County is categorically exempt from CEQA pursuant to the CEQA Guidelines, 14 Cal. Code Regs. §§15316 and 15325. Section 15316 provides an exemption for transfers of land to establish a park where the land is in a natural condition and the management plan for the park has not been prepared. Section 15325 provides an exemption for transfers of interests in land in order to preserve open space and habitat. The proposed transfer of Parcel 07 to the County of Marin qualifies for each of these exemptions because the land is in an undeveloped, natural condition and will be transferred for purposes of open space and habitat preservation as well as public access. The County has not yet prepared a management plan for the land. CEQA review will be required before the County approves either a management plan that will convert the land from its natural condition or construction of a segment of the Bay Trail. Staff will file a Notice of Exemption upon approval of the Revised Implementation Plan.