

COASTAL CONSERVANCY

Staff Recommendation
June 15, 2017

MK Ranch Conservation Easement

Project No. 17-016-01
Project Manager: Timothy Duff

RECOMMENDED ACTION: Authorization for the Conservancy to serve as a third-party beneficiary with enforcement rights in a conservation easement on the 2,000-acre MK Ranch in Northern San Luis Obispo County to be donated to the Land Conservancy of San Luis Obispo County.

LOCATION: Inland of Cayucos adjacent to Highway 46 in northern San Luis Obispo County.

PROGRAM CATEGORY: Integrated Coastal and Marine Resource Protection

EXHIBITS

Exhibit 1: [Location and site maps](#)

Exhibit 2: [Photos](#)

RESOLUTION AND FINDINGS:

Staff recommends that the State Coastal Conservancy adopt the following resolution pursuant to Sections 31220 of the Public Resources Code:

“The State Coastal Conservancy hereby agrees to serve as a third-party beneficiary with a contingent right to enforce the terms of a conservation easement on the 2,000-acre MK Ranch (San Luis Obispo County Assessor’s Parcel Nos. 014-191-013, 014-191-051, 014-191-052, 014-191-056, 014-192-009, 014-192-011, 046-012-004, 046-012-005, 046-012-006, 046-012-007, 046-021-036, 046-021-037, 046-021-038, 046-021-040, 046-021-051, 046-021-052) to be donated to the Land Conservancy of San Luis Obispo County for the protection of natural, scenic, open space and agricultural resources, as shown in Exhibits 1 and 2 of the accompanying staff recommendation, subject to the following conditions:

1. Prior to acquiring of the conservation easement, the Land Conservancy of San Luis Obispo County shall submit for the review and approval of the Executive Officer of the Conservancy (“Executive Officer”) all relevant acquisition documents, including but not limited to the conservation easement, donation agreement, title documents, and a baseline conditions report documenting the physical and environmental conditions of the property at the time of acquisition.

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2. The conservation easement shall continue as a servitude running in perpetuity with the property, and shall include the following terms:
 - a. the easement may not be amended, assigned, or transferred without prior written approval of the Conservancy;
 - b. the easement may not be used as security for any debt without prior written approval of the Conservancy;
 - c. the Conservancy shall be provided with annual monitoring reports regarding the condition of the property. ”

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 Chapter 5.5 of Division 21 of the Public Resources Code regarding integrated coastal and marine resources protection.
2. The proposed project is consistent with the current Conservancy Project Selection Criteria and Guidelines.
3. The Land Conservancy of San Luis Obispo County is a nonprofit organization existing under Section 501(c)(3) of the U.S. Internal Revenue Code, and whose purposes are consistent with Division 21 of the Public Resources Code.”

PROJECT SUMMARY:

Staff recommends that the Coastal Conservancy serve as a third-party beneficiary with a contingent right to enforce the terms of a conservation easement to be donated to the Land Conservancy of San Luis Obispo County (Land Conservancy) on the 2,000-acre MK Ranch in northern San Luis Obispo County. The Land Conservancy proposes that the easement give the Conservancy the following rights as a third-party beneficiary: to directly enforce the easement, to compel the Land Conservancy to enforce the easement, to assume ownership of the easement, or to find another qualified agency or nonprofit organization to assume ownership of the easement. The Conservancy would be able to exercise these rights only in the unlikely event that the Land Conservancy dissolves or fails to uphold the terms of the easement. The landowner wants to ensure their property will remain protected forever and for that reason has required designation of a third-party beneficiary with enforcement rights as a condition of their donation agreement with the Land Conservancy.

The purpose of the conservation easement is to protect open space, natural resources, scenic public views, and agriculture. The easement would protect the ranch from future residential development, conversion of rangeland to vineyards and other increases in the intensity of agricultural land uses. Retaining the ranch in its current open space condition will help protect water quality in this area as well as the scenic public views from Highways One and 46. In addition, the easement restrictions will preserve the ability of wildlife to move through the region and protect upland water resources in multiple coastal watersheds. This in turn will benefit

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stream habitat for the threatened South-Central California Coast Steelhead (Steelhead) and the endangered Tidewater Goby. The project is a unique opportunity to protect an iconic ranch on San Luis Obispo's north coast.

The Land Conservancy is a 501(c)(3) nonprofit organization accredited with the Land Trust Accreditation Commission, which evaluates land trusts based upon their organizational, legal and financial practices to ensure every conservation easement transaction is legally, ethically and technically sound. The Land Conservancy has preserved over 15,200 acres in San Luis Obispo County during its 33 years of operation and has been a partner with the Coastal Conservancy on numerous land acquisition projects.

Site Description: The MK Ranch sits in the cascading hills above Cayucos in the southern Santa Lucia range (Exhibit 1). The ranch has been managed by the same family since the 1980s. The property is composed of mixed rangeland habitat, including annual grassland pastures, oak woodlands, and riparian corridors. The ranch accounts for approximately 15 percent of the Villa Creek watershed, an important coastal-draining system for recovery of South Central California Coast Steelhead. A herd of roughly 100 cattle are rotated seasonally through multiple pastures in order to maintain healthy rangeland habitat to the benefit of cattle, wildlife, and open space. The property is situated in the southern portion of a critical wildlife corridor between the Silver Peak Wilderness and the Santa Lucia Ranger District of the Los Padres National Forest. This stretch of the southern Santa Lucia range is largely under private ownership.

Project History: The Land Conservancy initiated discussions with the MK Ranch owners in 2013 on options to conserve the property by reducing or eliminating all future development potential and prohibiting conversion of the current livestock operations to more intensive land uses such as vineyards. The landowners also expressed a strong interest in the Land Conservancy's ongoing efforts to conserve other nearby ranches in the region, especially the adjacent Hill Ranch that the Land Conservancy is currently working to protect. Together, these two properties represent approximately 4,000 acres and nearly one quarter of the Villa Creek watershed. In May of 2017, the Land Conservancy contacted Coastal Conservancy staff regarding the Conservancy's interest and ability to participate in the protection of the MK Ranch as a holder of certain third-party rights in the easement.

PROJECT FINANCING: Not applicable. No Conservancy funds to be disbursed.

CONSISTENCY WITH CONSERVANCY'S ENABLING LEGISLATION:

Conservancy participation in the proposed project is consistent with Chapter 5.5, Integrated Coastal and Marine Resources Protection (Section 31220) of the Conservancy's enabling legislation, Division 21 of the Public Resources Code. Section 31220(a) authorizes the Conservancy to undertake a project or award grants for coastal watershed projects that meet one or more criteria of Section 31220(b). Consistent with Section 31120(b), the proposed project will (1) reduce contamination of waters within the coastal zone (Section 31120(b)(1)) by prohibiting land uses and practices that could adversely affect downstream water quality; (2) protect fish and wildlife habitat within coastal watersheds and coastal waters (Section 31120(b)(2)), including endangered species habitat in the Villa Creek watershed; and (3) reduce erosion and

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sedimentation of a coastal watershed (Section 31120(b)(4)) by preventing future land uses that could contribute to watershed erosion and sedimentation.

Consistent with §31220(a), staff has consulted with Central Coast Regional Water Quality Control Board to ensure consistency with Chapter 3 (commencing with §30915) of Division 20.4 of the Public Resources Code, the purpose of which is to restore water quality and environment of coastal waters, estuaries, bays, and nearshore waters.

Although this project is not funded by the Conservancy, staff has consulted with the State Water Resources Control Board on project selection, checked for consistency with local watershed management plans and water quality control plans adopted by the State Water Resources Control Board and Regional Water Quality Control Boards (see the “Consistency with Local Watershed Management Plan/State Water Quality Control Plan” section below), and has ensured that there is a monitoring and evaluation component in the project. See §31220(c).

CONSISTENCY WITH CONSERVANCY’S 2013-2018 STRATEGIC PLAN GOAL(S) & OBJECTIVE(S), AS REVISED JUNE 25, 2015:

Consistent with **Goal 4, Objective A**, the proposed project will protect 2,000 acres with significant watershed resources on the Central Coast.

Consistent with **Goal 4, Objective B**, the proposed project will protect 2,000 acres of working lands through a conservation easement.

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 October 2, 2014, 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:** Not applicable. No funds will be disbursed.
3. **Promotion and implementation of state plans and policies:** The proposed conservation easement will implement the California Water Action Plan, Action 4, that calls for protecting and restoring coastal watershed, by protecting a large coastal ranch within the upland region of a coastal watershed and protecting upland water resources in multiple coastal watersheds that drain to the ocean.
4. **Support of the public:** Protection of large, private ranches in the region is supported by the Cayucos Land Conservancy, County Supervisor Bruce Gibson, Representative Salud Carbajal, California 24th District, the San Luis Obispo Council of Governments, and landowners/ranchers in the area.

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5. **Location:** The project is located in the hills above Cayucos in the southern Santa Lucia range of northern San Luis Obispo County. The proposed easement would protect upland water resources in coastal watersheds that drain to the ocean, including Villa Creek.
6. **Need:** By serving as a third party enforcement agency on a conservation easement, the Coastal Conservancy will address the landowner's desire to ensure the protection of their property in perpetuity.
7. **Greater-than-local interest:** The proposed project will protect water resources in multiple coastal watersheds that drain to the ocean, benefit a federally threatened species (steelhead) and protect public views from Highways One and 46.
8. **Sea level rise vulnerability:** This project sits within the hills above Cayucos more than 200 feet above sea level and will not be directly impacted by sea level rise.

Additional Criteria

9. **Cooperation:** By serving as a third party enforcement agency on a conservation easement the Coastal Conservancy will cooperate with a landowner seeking permanent protection of their property in partnership with a nonprofit land trust.

CONSISTENCY WITH LOCAL WATERSHED MANAGEMENT PLAN/ STATE WATER QUALITY CONTROL PLAN:

Projects undertaken pursuant to Chapter 5.5 of Public Resources Code Division 21 (§31220) must be consistent with local watershed management plans, if available, and with water quality control plans, adopted by the state and regional water boards. The project is consistent with the Water Quality Control Plan for the Central Coast Basin (2016), and specifically addresses the following beneficial use objectives: wildlife habitat, estuarine habitat, freshwater replenishment, ground water recharge, agricultural supply, and rare, threatened, or endangered species.

COMPLIANCE WITH CEQA:

Under the California Environmental Quality Act (CEQA), a "project" consists of an action that may cause either a direct physical change or a reasonably foreseeable indirect change in the environment; and that is an activity directly undertaken or funded by a public agency, or an activity that involves the issuance of a permit or other entitlement. (Public Resources Code Section 21065). The CEQA Guidelines further define the term "project" and confirm that it does not include administrative activities of government that will not result in direct or indirect physical changes in the environment. (14 Cal Code Regs. § 15378(b)(5)). The Conservancy's agreement to serve as a third-party beneficiary of a conservation easement is an administrative activity that does not have the potential to cause a physical change to the environment.

However, the Conservancy's agreement to serve as third-party beneficiary will help the Land Conservancy acquire an easement in the MK Ranch. To the extent the proposed acquisition of the conservation easement may be construed as part of this authorization, it is categorically exempt from the provisions of CEQA pursuant to 14 Cal. Code of Regs. §15325 because it is a transfer of ownership of interests in land in order to preserve open space, existing natural

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conditions and agriculture. Staff will file a Notice of Exemption upon Conservancy approval of the project.