

## COASTAL CONSERVANCY

Staff Recommendation

March 22, 2018

### **SAN LUIS OBISPO CREEK FARMS ACQUISITION**

Project No. 18-001-01

Project Manager: Timothy Duff

**RECOMMENDED ACTION:** Authorization to disburse up to \$400,000 to the Land Conservancy of San Luis Obispo County for acquisition of San Luis Obispo Creek Farms in the lower San Luis Obispo Creek watershed.

**LOCATION:** The San Luis Obispo Creek watershed extends from its headwaters at the crest of the Cuesta Grade to the ocean at Avila Beach, in San Luis Obispo County. The project area is located in the lower reach of the creek south of Highway 101, San Luis Obispo County (Exhibit 1).

**PROGRAM CATEGORY:** Integrated Coastal and Marine Resource Protection

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#### **EXHIBITS**

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

Exhibit 2: [Project Photos](#)

Exhibit 3: [Project Letters](#)

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#### **RESOLUTION AND FINDINGS:**

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

“The State Coastal Conservancy hereby authorizes the disbursement of up to four hundred thousand dollars (\$400,000) to the Land Conservancy of San Luis Obispo County (LCSLO) for the purpose of acquiring San Luis Obispo Creek Farms (“the Property”) in San Luis Obispo County (consisting of San Luis Obispo County Assessor Parcel No. 076-251-046) for the purposes of protection and restoration of riparian habitat and floodplains and, to the extent not inconsistent with these purposes, for the preservation of agriculture, open space, and public access, subject to the following conditions:

1. Prior to the disbursement of funds for the acquisition, LCSLO shall submit for the review and approval of the Executive Officer of the Conservancy (Executive Officer):
  - a. All relevant acquisition documents for the acquisition including, without limitation, the appraisal, purchase and sale agreement, deed restrictions, agreements of restrictive

covenants, notices of unrecorded agreements, escrow instructions, environmental or hazardous materials assessment and title report.

- b. Evidence that sufficient funds are available to complete the acquisition.
2. LCSLO shall pay no more than fair market value based upon an appraisal of the Property, in accordance with Public Resources Code Section 31116(b).
3. LCSLO shall permanently dedicate the Property for the protection and restoration of riparian habitat and floodplains and, to the extent not inconsistent with these purposes, for the preservation of agriculture, open space, and public access by an appropriate instrument approved by the Executive Officer and recorded, in accordance with Public Resources Code Section 31116(b).”

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 authorization 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. LCSLO 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.

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**PROJECT SUMMARY:**

Staff recommends that the Conservancy provide a \$400,000 grant to the Land Conservancy of San Luis Obispo County (LCSLO) for the acquisition of the 45-acre San Luis Obispo Creek Farms (the “Property”) in the lower San Luis Obispo Creek watershed for the protection and restoration of riparian habitat and floodplains and, to the extent not inconsistent with these purposes, for the preservation of agriculture, open space, and public access. The acquisition will complete a decade-long effort to permanently protect critical riparian and floodplain parcels identified in the San Luis Obispo Creek Watershed Enhancement Plan prepared and implemented with Conservancy funding.

This reach of San Luis Obispo Creek supports some of the highest-quality steelhead rearing habitat in the entire watershed, and the proposed acquisition ensures the Property will be protected in perpetuity from potential changes in county zoning laws, population growth, or other unforeseen issues that would threaten its important natural resource values. Acquiring the Property will enable LCSLO to add a half mile of riparian habitat to its adjacent one mile of floodplain landholdings along San Luis Obispo Creek, and protect several federally listed species, including California red-legged frog, southwestern pond turtle, southwest willow flycatcher, and South-Central California Coast Steelhead.

The acquisition will preserve the operation of an organic apple orchard (SLO Creek Farms) through a leaseback to the current landowner. Revenue generated from the leaseback will be

directed to the stewardship of this Property and the two adjacent floodplain properties in LCSLO's Lower San Luis Obispo Creek Floodplain Preserve, thus providing an ongoing and stable source of funding for both short and long-term stewardship. The acquisition will also serve to secure a key segment in the future extension of the Bob Jones Trail, a popular multi-use trail that will eventually connect the City of San Luis Obispo to Avila Beach.

LCSLO has a 30-year history working with the Conservancy on acquisition and restoration projects, including two previous floodplain acquisition projects along lower San Luis Obispo Creek. LCSLO has extensive experience owning and managing conservation properties and has the staff capacity and financial resources to effectively manage the Property.

**Site Description:** San Luis Obispo Creek Farms is located in the Lower San Luis Obispo Creek Floodplain Preserve between San Luis Obispo and Avila Beach, in San Luis Obispo County (Exhibits 1 and 2). The farm produces certified organic apples over 27 acres of productive orchards. The current owner offers a u-pick business during the harvest season and operates a small community garden. The farm is bisected north to south by San Luis Obispo creek. Much of the 45-acre property on either side of the creek is part of the creek's floodplain, and remains undeveloped beyond the existing orchard and community garden. LCSLO owns orchards and floodplain habitat directly north and south of the Property, and also holds a riparian easement along the portion of San Luis Obispo Creek that runs through the orchard. While the orchards are within the floodplain, they do not affect the ability of the Property to receive floodwaters during periods of heavy rain and runoff.

Riparian habitat on the Property includes varied native and non-native vegetation, including Coast Live Oak, Western Sycamore, Arroyo Willow, Arundo, and Cape Ivy. The riparian corridor is kept clear of dams and other obstructions and maintains unrestricted stream flow that allows for riparian species, including Steelhead, to utilize the stream all year. In addition to the apple orchards, the Property includes storage sheds, barns, and a small farm house, located on the eastern edge of the Property and above the floodplain.

**Project History:** In 2002, the Conservancy approved and funded LCSLO's San Luis Obispo Creek Watershed Enhancement Plan, and provided additional funds to LCSLO to acquire the top-priority lower floodplain property identified in the plan. In 2005, the Conservancy again provided funds to LCSLO to acquire an adjacent floodplain property. In early 2017, LCSLO submitted a Proposition 1 grant application for the acquisition of San Luis Obispo Creek Farms. After reviewing the project proposal, Conservancy staff identified it as a priority relative to the Conservancy's Strategic Plan goals, but determined that the Habitat Conservation Fund was a more appropriate funding source for the project.

## **PROJECT FINANCING**

<b>Coastal Conservancy</b>	\$400,000
Resources Agency (EEMP)	\$900,000
County of San Luis Obispo	<u>\$200,000</u>
<b>Project Total</b>	<b>\$1,500,000</b>

The anticipated source of Conservancy funds for this project is the fiscal year 2011/12 appropriation from the Habitat Conservation Fund (HCF), which was created by the California Wildlife Protection Act of 1990 (Proposition 117, Fish and Game Code Sections 278—2799.6). Pursuant to Fish and Game Code Section 2786, HCF funds may be used for acquisition of habitat to protect rare, endangered, threatened, or fully protected species (subsection b), the acquisition, restoration, or enhancement of aquatic habitat for spawning and rearing of anadromous salmonids (subsection e), or the acquisition, restoration or enhancement of riparian habitat (subsection f). Acquisition of the Property will serve to protect sensitive habitat for the federally threatened south-central California coast steelhead trout, California red-legged frog, southwestern pond turtle, and federally endangered southwest willow flycatcher.

The Conservancy's 2011/12 appropriation of HCF funds comes from the Disaster Preparedness and Flood Prevention Bond Act of 2006 (Proposition 1E, Public Resources Code (PRC) Section 5096.800-5096.968). PRC Section 5096.825 specifies actions to protect, create, and enhance flood protection corridors for which Prop 1E funds can be used. These actions include "acquiring interests in, or providing incentives for maintaining agricultural uses of, real property that is located in a flood plain that cannot reasonably be made safe from future flooding" (5096.825(e)); and "acquiring easements and other interests in real property to protect or enhance flood protection corridors while preserving or enhancing the wildlife value (5096.825(f)). The Property is within the floodplain of San Luis Obispo Creek, and the acquisition will ensure continuation of the existing agricultural use of the Property, the farm's apple orchard, and will also protect the existing wildlife values of the property.

**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(b) authorizes the Conservancy to undertake a project or award grants for coastal watershed projects that meet one or more criteria of that section. Consistent with Section 31120(b), the proposed project will: 1) protect fish and wildlife habitat within coastal watersheds, including endangered species habitat in the San Luis Obispo Creek watershed (Section 31120(b)(2)); and 2) acquire and protect riparian areas and floodplains (Section 31120(b)(6)).

Consistent with Section 31220(a), staff has consulted with Central Coast Regional Water Quality Control Board in the development of the project to ensure consistency with Chapter 3 (commencing with Section 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.

Likewise, consistent with Section 31220(c), staff has consulted with the State Water Resources Control Board on project selection and confirmed that the acquisition project is consistent 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). The project also includes a monitoring and evaluation component.

**CONSISTENCY WITH CONSERVANCY'S 2018-2022 STRATEGIC PLAN  
GOAL(S) & OBJECTIVE(S):**

Consistent with **Goal 5, Objective A**, the proposed acquisition of a coastal floodplain property will serve to protect a significant coastal and watershed resource property.

Consistent with **Goal 5, Objective B**, the proposed acquisition will protect working lands, including farmland by allowing the current orchard operation to continue.

**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 4, 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:** See the "Project Financing" section above.
3. **Promotion and implementation of state plans and policies:** By acquiring the floodplain and farmland of the Property, the project serves to promote and implement several state plans including:
  - *California @ 50 Million: The Environmental Goals and Policy Report* (Governor's Office of Planning and Research, 2013 Draft). Key Actions 1-3 of the "Preserve and Steward State Lands and Natural Resources" call out the need for 1) preserving agricultural lands, 2) supporting active transportation, and 3) appropriately maintaining and preserving watersheds and floodplains.
  - *CA Climate Adaptation Strategy/Safeguarding California: Reducing Climate Risk Plan, Agriculture and Biodiversity and Habitat* goals (CA Natural Resources Agency, July 2014). This project furthers the of the plan's goals to protect sustainable, innovative farm operations within a coastal watershed, preventing farmland conversion, protecting stream and wildlife habitat, and maintaining wetland habitat that benefits soil carbon sequestration, ground water recharge, and water purification.
  - *CA Wildlife Action Plan* (State Department of Fish and Wildlife, 2005). The project will further the following statewide recommended actions: g) Federal, state, and local agencies and nongovernmental conservation organizations, working with private landowners and public land managers, should expand efforts to restore and conserve riparian communities. In addition, recommended actions for the marine region include: d) the state should increase efforts to restore coastal watersheds. By implementing the plan's land acquisition conservation strategy the

project will protect habitat for species within the American Southwest Riparian Forest and Woodland Conservation Target, including steelhead.

- *South-Central/Southern California Coast Steelhead Recovery Plan* (National Marine Fisheries Service, 2013). This project will protect and maintain stream habitat in San Luis Obispo Creek by preventing development and preventing surface water diversions for high-intensity land uses.
- *Recovery Plan for the California Red-legged Frog* (U.S. Fish and Wildlife Service, 2013): This project will protect suitable habitat for the California Red-legged Frog within a coastal stream corridor.
- *California Essential Habitat Connectivity Strategy for Conserving a Connected California* (State Department of Fish and Wildlife, 2010): San Luis Obispo Creek Farms sits within a Natural Landscape Block of less than 2000 acres along lower San Luis Obispo Creek, as defined by the California Essential Habitat Connectivity Project.
- *California Coastal Sediment Management Master Plan* (Coastal Sediment Management Work Group, 2006-): This project will prevent development within a coastal stream floodplain, which is an identified public concern within the San Luis Obispo County Sediment Management Plan.

4. **Support of the public:** The project is supported by Representative Salud Carbajal, California 24<sup>th</sup> District, San Luis Obispo County Supervisor Adam Hill, the Coastal San Luis Resources Conservation District, the San Luis Obispo Council of Governments, and others. See Exhibit 3, Project Letters.
5. **Location:** The proposed project is located within the coastal zone of San Luis Obispo County.
6. **Need:** Conservancy funds are essential to the acquisition of San Luis Obispo Creek Farms as there is a high likelihood that the project will not be completed without Conservancy funding.
7. **Greater-than-local interest:** The proposed project will protect several federally listed species including California red-legged frog, southwestern pond turtle, southwest willow flycatcher, and South-Central California Coast Steelhead, preserve agriculture and open space, and support public access.
8. **Sea level rise vulnerability:** This project is located at an approximate elevation of 37 feet. Thus, it is above the anticipated sea level rise of 55-inches by 2100, and will not be directly impacted by sea level rise.

#### **Additional Criteria**

9. **Leverage:** See the “Project Financing” section above.
10. **Realization of prior Conservancy goals:** “See “Project History” above.”
11. **Return to Conservancy:** See the “Project Financing” section above.

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

Projects undertaken pursuant to Chapter 5.5 of Public Resources Code Division 21 (Section 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. Acquisition of the Property furthers the San Luis Obispo County Integrated Regional Water Management Plan, Ecosystem and Watershed Goal, Objective 2, to preserve, enhance, restore, and conserve riparian corridors and natural creek and river systems through wetland restoration, natural floodplains, riparian buffers, conservation easements, and other mechanisms. The project is consistent with the Water Quality Control Plan for the Central Coast Basin (2016), and specifically addresses the following beneficial use objectives in the San Luis Obispo Creek watershed: wildlife habitat, estuarine habitat, agricultural supply, freshwater replenishment, ground water recharge, and rare, threatened, or endangered species.

**COMPLIANCE WITH CEQA:**

The proposed acquisition is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to 14 Cal. Code of Regulations Section 15325 because it is a transfer of ownership of interests in land in order to preserve open space and habitat. Specifically, the project is an acquisition to preserve existing natural conditions, including plant and animal habitat (Section 15325(a)), allow continued agricultural use (Section 15325(b)), allow restoration of natural conditions (Section 15325(c)), and to prevent encroachment of development into flood plains (Section 15325(d)).

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