

## COASTAL CONSERVANCY

Staff Recommendation  
December 6, 2018

### TORO CREEK RANCH ACQUISITION

Project No. 18-031-01  
Project Manager: Timothy Duff

**RECOMMENDED ACTION:** Authorization to disburse up to \$1,000,000 to the Trust for Public Land to acquire the 283 acre Toro Creek Ranch located between Morro Bay and Cayucos, San Luis Obispo County.

**LOCATION:** Chevron Estero Marine Terminal, between Morro Bay and Cayucos in unincorporated San Luis Obispo County.

**PROGRAM CATEGORY:** Public Access

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#### EXHIBITS

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

Exhibit 2: [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 Sections 31220 and 31400 *et seq.* of the Public Resources Code:

“The State Coastal Conservancy hereby authorizes the disbursement of an amount not to exceed one million dollars (\$1,000,000) to the Trust for Public Land, for the acquisition of the approximately 283-acre Toro Creek Ranch property, San Luis Obispo County, (consisting of San Luis Obispo County Assessor Parcel Nos. 073-092-052, 073-092-053, 073-075-016, 073-075-011, and a portion of 065-022-008) to protect open space, wildlife habitat, water quality and water supply and to provide public access consistent with these purposes, subject to the following conditions:

1. Prior to the disbursement of funds for the acquisition, the grantee 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, escrow instructions, environmental or hazardous materials assessment, and title report;
    - b. A baseline conditions report;
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- c. A monitoring and reporting plan; and
  - d. Evidence that sufficient funds are available to complete the acquisition.
2. The grantee shall pay no more than fair market value for the property, as established in an appraisal approved by the Executive Officer.
  3. The property acquired under this authorization shall be managed and operated for open space, wildlife habitat, water quality and water supply, and to provide public access consistent with these purposes. The property shall be permanently dedicated to those purposes by an appropriate instrument approved by the Executive Officer.
  4. Conservancy funding shall be acknowledged by erecting and maintaining a sign on the property or in a nearby publicly-viewable area, the design and location of which are to be 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 authorization is consistent with Chapters 5.5 and of Division 21 of the Public Resources Code, regarding Integrated Coastal and Marine Resources Protection and a System of Public Accessways, respectively.
2. The proposed project is consistent with the current Conservancy Project Selection Criteria and Guidelines.
3. The Trust for Public Land is a nonprofit organization existing under section 501(c)(3) of the U.S. Internal Revenue Code, and has purposes consistent with Division 21 of the Public Resources Code.”

### **PROJECT SUMMARY:**

Staff recommends disbursement of up to \$1,000,000 to the Trust for Public Land (TPL) for the acquisition of the 283-acre Toro Creek Ranch property located in San Luis Obispo County. (See Exhibit 1). The purpose of the acquisition is to expand public access and protect open space, wildlife habitat, and water quality and supply, as described more fully below. The proposed acquisition, comprised of three lots located on both sides of Highway One, includes 16 acres of oceanfront land west of Highway 1 that extends along a half mile sandy beach and bluffs, and nearly one mile of Toro Creek, a steelhead-bearing stream (Exhibit 1).

Since the late 1920's the Standard Oil/Chevron Estero Marine Terminal stored and loaded crude oil from the Central Valley to large ocean tankers that would anchor offshore between Cayucos and the City of Morro Bay. The 3,000-acre Chevron Marine Terminal ceased operations in 1999 and Chevron began the process of retiring the facilities. Over the past several years, Chevron has successfully subdivided their land holdings and sold off several parcels, including 540 acres to private individuals. Another two properties encompassing roughly 400 acres are currently in escrow, and several other parcels are listed for sale. These sales demonstrate a strong demand for estate ranch properties particularly in close proximity to the Pacific Ocean and illustrate the need for urgent action to protect remaining portions of the Property.

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For the proposed project, TPL would acquire a total of 283 acres, including approximately one mile along the north bank of Toro Creek and most of the ocean-front parcels. The acquisition will protect roughly 267 acres of coastal grasslands, riparian and other habitats from conversion to more intensive residential and/or agricultural land uses such as vineyards or orchards. This in turn will protect Toro Creek from the impacts of increased water diversions and erosion and will serve to protect instream water quality and supply for the South-Central California Coast Steelhead and other threatened and endangered species known to occur on the property. The project will also protect public access to the beach/bluff areas, and facilitate completion of a planned segment of the California Coastal Trail between Morro Bay and Cayucos. In addition, the acquisition will help maintain a scenic corridor between the City of Morro Bay and town of Cayucos, as identified in the local coastal plan. (See Consistency with Local Coastal Program Policies section, below and Exhibit 3).

Under the proposed project, TPL will acquire Lot 1 (~258 acres) from Chevron, and Lots 6N (9 acres) and 7N (17 acres) from the Cayucos Sanitary District (CSD) after the District acquires the land from Chevron for their planned wastewater treatment plant (Exhibit 1, page 4). The CSD will sell the underlying fee to TPL and retain utility easements over these lots to accommodate their operations, including the use of existing pipes and outfalls to discharge excess treated water from their plant. The CSD has recently purchased other lots from Chevron to serve as the site for their new wastewater plant. Lot 1 is suitable for estate-residential home sites that would capitalize on the same stunning panoramic ocean views to be protected by the proposed acquisition. Additionally, agricultural uses would be permissible in several meadows and open areas on the property. These factors underline the urgency of the proposed acquisition.

Following acquisition, TPL will transfer most of Lot 1 to the County of San Luis Obispo (County) and the rest to the City of Morro Bay. The County will also take ownership of lots 6N and 7N. The inland portion of Lot 1 includes a single-family residence that is currently leased on a month-to-month basis. Following the transfer of the property the County intends to lease the home and direct the revenue towards their costs to own and manage the property. The City of Morro Bay has agreed to take ownership and maintain a portion of Lot 1 seaward of Highway One, including a stretch of beach historically accessible to visitors with dogs that the City has committed to own and operate as a dog-friendly park (Exhibit 1).

**Site Description:** Toro Creek Ranch is located on both sides of Highway One adjacent to Estero Bay and the Pacific Ocean between Morro Bay and Cayucos in unincorporated San Luis Obispo County (Exhibit 1). To the northwest is a residential area of southern Cayucos. To the northeast, the Cayucos Land Conservancy owns 30-acres of undeveloped land used for hiking, mountain biking, and open space. The Whale Rock Reservoir pump station and a Cal Fire station also border the northern edge of the property, and on the eastern boundary, Cayucos Sanitary District owns additional land. The southern end of the property shares a border with private agricultural / grazing land and the former Chevron Estero Marine terminal facilities. Toro Creek extends for nearly a mile along the property's southern edge while the western property boundary borders the Pacific Ocean. The South-Central California Coast Steelhead is known to occur in Toro Creek, and other threatened and endangered species on the property include California red-legged frog, tidewater goby and western snowy plover.

Lot 1 is comprised of approximately 245 acres east of the highway and 12 acres west of Highway One, including beach areas adjacent to the mean high tideland. (See Exhibit 1). Most of the inland portion of Lot 1 features gentle to steeper hillsides used for cattle grazing with

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elevations ranging from 30 feet to 700 feet above sea level. The inland side of Lot 1 includes a small, 990 square-foot single-family residence and limited outbuildings with access from Toro Creek Road that has been leased to a family for several decades. A gravity-fed water storage tank is located above the home that is fed by a horizontal well for residential and livestock use. Lot 6N is comprised of a total of 9 acres located on both sides of Highway 1 and includes a lift station and pipes that extend to the ocean, formerly used as part of Chevron’s operations, and currently being repurposed for use by the CSD. Lot 7N totals 17 acres located east of Highway One.

**Grantee Qualifications:** TPL has a long history of working with the Conservancy and local partners on land conservation in the Morro Bay area and continues to have the staff capacity and resources to complete the proposed acquisition successfully, as well as a potential future phase of acquisitions from Chevron. TPL staff has demonstrated the expertise required to pull together such a complex set of proposed land transactions, including recruiting several local agencies to commit to own and manage various pieces of the larger property complex. They have also raised significant state and local funding needed to complete the acquisition.

**Project History:** TPL contacted Conservancy staff in late 2017 to discuss the project and the potential for funding under Proposition One. Staff confirmed the project would be a viable candidate for funding and in June of 2018 TPL submitted a grant application. In August 2018, Conservancy staff agreed to recommend funding the project and for the past several months staff has assisted TPL with various aspects of the project.

### PROJECT FINANCING

<b>Coastal Conservancy</b>	<b>\$1,000,000</b>
Natural Resources Agency (EEMP)*	\$1,000,000
Wildlife Conservation Board*	\$1,500,000
State Department of Fish and Wildlife (Prop 1)*	\$1,000,000
County of San Luis Obispo*	<u>\$500,000</u>
<b>Project Total</b>	<b>\$5,000,000</b>

\*Awards Pending

The anticipated source of Conservancy funds for this project is an appropriation from the Water Quality, Supply, and Infrastructure Improvement Act of 2014 (Proposition 1, Water Code section 79700 *et seq.*). Proposition 1 funds appropriated to the Conservancy may be used “for multi-benefit water quality, water supply, and watershed protection and restoration projects for the watersheds of the state” (Section 79731). Section 79732 identifies specific purposes of Chapter 6, which include: protecting and restoring coastal watersheds, including, but not limited to bays, marine estuaries, and nearshore ecosystems; and assisting in the recovery of endangered, threatened or migratory species by improving watershed health, instream flows, fish passage and coastal or inland wetland restoration. Because the proposed project consists of acquisition of

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land interests to protect and restore a coastal watershed and improve the health of the Toro Creek watershed and Estero Bay, it is an appropriate use of Proposition 1 funds.

As required by Proposition 1, the proposed project provides multiple benefits. The acquisition will serve to protect biodiversity and habitat, ocean and coastal ecosystems and resources, and water. The risk to these diverse natural resources will be addressed by restricting development within a coastal watershed, maintaining wildlife and stream habitat in a major wildlife corridor, and protecting water quality through development restrictions.

In accordance with Section 79707(b), which requires agencies to prioritize “projects that leverage private, federal, or local funding or produce the greatest public benefit,” this project is expected to leverage local funding.

The project was selected through a competitive grant in June 2015 (“Prop 1 Guidelines”). (See Section 79706(a)). The proposed project meets each of the evaluation criteria in the Prop 1 Guidelines as described in further detail in this “Pro process under the Conservancy’s *Proposition 1 Grant Program Guidelines* adopted ject Financing” section, the “Project Summary” section and in the “Consistency with Conservancy’s Project Selection Criteria & Guidelines” section of this report.

The grantee is applying to Natural Resources Agency, Wildlife Conservation Board, and State Department of Fish and Wildlife for \$3 million in match funds from various grant programs including the Environmental Enhancement and Mitigation Grant Program and Proposition 1. The grantee is also raising funds from the County of San Luis Obispo and possibly private sources.

The grantee will be providing in-kind staff services to manage the transaction with an estimated value of \$50,000.

### **CONSISTENCY WITH CONSERVANCY’S ENABLING LEGISLATION:**

The proposed project will be undertaken pursuant to with Chapter 5.5 (Integrated Coastal and Marine Resources Protection) and Chapter 9 (Public Access) of Division 21 of the Public Resources Code.

Within Chapter 9, section 31400 states that the Conservancy shall have a principal role in the implementation of a system of public accessways to and along the state’s coastline. Consistent with this section, acquisition of the Toro Creek property will facilitate planning for the future development of public access to and along the state’s coastline.

Section 31400.1 allows the Conservancy to award grants to nonprofit organizations for acquisition and development of lands for public access purposes to and along the coast. The proposed grant is consistent with this section because the acquisition of the Toro Creek property would enable development of public access to and along the coast.

Section 31400.2 allows the Conservancy to provide up to the total cost of an acquisition and the initial development of public accessways by a nonprofit organization. Consistent with this section, Conservancy staff has considered a number of factors in determining the amount of funding for the proposed project. The proposed level of funding was evaluated relative to the total amount of funding available to the Conservancy for coastal public accessway projects, and the fiscal resources of the applicants. The proposed grant is consistent with this section because

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a significant match to Conservancy funds would be provided by other state agencies and San Luis Obispo County. The amount of proposed Conservancy funding is appropriate relative to the total amount of funding available to the Conservancy for coastal public accessway projects.

Conservancy participation in the proposed project is also consistent with Chapter 5.5, Integrated Coastal and Marine Resources Protection (Section 31220) 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 31220(b)(2), the proposed project will protect fish and wildlife habitat within coastal watersheds, including endangered species habitat in Toro Creek by protecting land adjacent to the anadromous fish-bearing creek from development or harmful agricultural practices. The land use restrictions will also protect other marine-related species such as tidewater goby and western snowy plover.

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 1, Objective E** of the Conservancy’s 2018-2022 Strategic Plan, the proposed project will secure real property to facilitate the development of the California Coastal Trail.

Consistent with **Goal 2, Objective G** of the Conservancy’s 2018-2022 Strategic Plan, the proposed project entails acquiring land to allow for development of new coastal accessways.

Consistent with **Goal 5, Objective A** of the Conservancy’s 2018-2022 Strategic Plan, the proposed project will protect 283 acres of a significant coastal and watershed resource property.

### **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.

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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 subject property, the project serves to promote and implement several state plans including:
  - *California Water Action Plan* (2014). California Natural Resources Agency, the California Environmental Protection Agency, and the California Department of Food and Agriculture developed this Water Action Plan to meet three broad objectives: more reliable water supplies, the restoration of species and habitat, and a more resilient, sustainably managed water resources system. By protecting a one-mile stretch of Toro Creek, this project will advance the following goal: Goal #4, which identifies restoration of coastal watersheds as a priority action in order to protect and restore important ecosystems, including the South-Central California Coast Steelhead.
  - *California @ 50 Million: The Environmental Goals and Policy Report* (Governor’s Office of Planning and Research, 2013 Draft). Key Action #3 of the “Preserve and Steward State Lands and Natural Resources” calls for building resilience in natural systems and specifically calls out the need for well-maintained watersheds and floodplains. This project will advance two of the Goals for California’s Future: 2) preserve and steward the state’s lands and natural resources, and 3) build sustainable regions that support healthy, livable communities.
  - *CA Climate Adaptation Strategy/Safeguarding California: Reducing Climate Risk Plan* (CA Natural Resources Agency, July 2014). The plan identifies “Actions Needed to Safeguard Biodiversity and Habitats” including #1: Improve habitat connectivity and protect climate refugia. This acquisition will preserve a portion of a significant regional wildlife corridor at the intersection of two Essential Connectivity Areas (ECAs) which converge in the southern portion of the Adelaida wildlife corridor. These ECAs are the San Geronimo – Los Padres National Forest Corridor, which extends north through Big Sur, and the La Panza Range – San Geronimo Corridor, which extends south to Cuyama Valley. The Toro Creek property supports both local and migratory species that traverse these ECAs. This role will become increasingly important as species migrate due to climate change.
4. **Support of the public:** The project has broad support of the public, local community groups, public agencies, and elected officials as demonstrated by the letters attached as Exhibit 3.
5. **Location:** The project is located both inside and outside the Coastal Zone with roughly three quarters of the property in the Coastal Zone. Toro Creek extends for a mile through the property from the mouth of the creek to the upper reaches of the watershed outside of the Coastal Zone. The project will thus serve to protect resources located both in and out of the Coastal Zone, including habitat for the South-Central California Coast Steelhead that is known to occur in Toro Creek.
6. **Need:** Conservancy funds are needed to match other funds. If not provided there is a high likelihood that the project will not be completed.
7. **Greater-than-local interest:** The proposed project will protect water resources in a coastal watershed that drains to the ocean, benefit federally-listed threatened and endangered

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species, including the South-Central California Coast Steelhead, California red-legged frog, tidewater goby and western snowy plover, and protect public views from Highways One.

8. **Sea level rise vulnerability:** The land to be acquired features elevation ranges from the mean high tide to approximately 700 feet above sea level. The project does not include any proposed new development. Highway One bisects the property at an elevation of approximately 40 feet and it will be the responsibility of the State Department of Transportation (Caltrans) to address any future threats to the highway from sea level rise.

### **Additional Criteria**

9. **Leverage:** See the “Project Financing” section above.
10. **Urgency:** Chevron has recently sold a number of parcels they own at their former terminal site and several others are currently listed for sale. It is urgent to acquire the Toro Ranch parcels before they are sold for future residential development.
11. **Cooperation:** The project entails the cooperation of several local agencies and land trusts.

### **CONSISTENCY WITH LOCAL COASTAL PROGRAM POLICIES:**

Consistent with the San Luis Obispo County Local Coastal Plan for the project area (Estero Area Plan, certified by the Coastal Commission in 1988 and updated in 2009), Chapter 4, Land Use Policies and Programs, Rural Land Use Policy 10 states, “Protect open space and sensitive resources on the coastal terrace to the south of Cayucos,” Policy 12 regarding the Chevron Estero Marine Terminal Pursue calls for “improved coastal access and amenities such as a bicycle and pedestrian path connection between Cayucos and the city of Morro Bay,” and Policy 13 states that Intensive development of this area is not intended, and its open space character needs to be preserved. Finally, Morro Bay Fringe Land Use Policy 1 states, “Prevent urban development outside the Morro Bay city limits, and direct future growth onto developable, non-prime lands within the city. The proposed acquisition is consistent with each of these local coastal program policies.

### **CEQA COMPLIANCE:**

The project consists of the purchase of land in order to preserve fish and wildlife habitat and provide access to public lands where the purpose of the acquisition is to preserve the land in its natural condition. Such purchases are exempt from the California Environmental Quality Act (CEQA) under State CEQA Guidelines, Class 13 (Acquisition of Lands for Wildlife Conservation Purposes). 14 Cal. Code Regs. § 15313. The project also involves the purchase of land in order to preserve open space and wildlife resources. Such purchases are exempt from CEQA under State CEQA Guidelines, Class 25 (Transfers of Ownership in Land to Preserve Existing Natural Conditions and Historical Resources), 14 Cal. Code Regs. § 15325.

Upon Conservancy approval, staff will file a Notice of Exemption.