

COASTAL CONSERVANCY

Staff Recommendation
June 1, 2023

ELK RIVER HABITAT RESTORATION PROJECT: ACQUISITION AND PLANNING

Project No. 23-035-02
Project Manager: Michael Bowen

RECOMMENDED ACTION: Authorization to disburse up to \$5,500,000 to California Trout, Inc. for the acquisition of the 175-acre Prior Ranch and development of restoration designs, environmental review materials, and permit applications for the Elk River Habitat Restoration Project in Humboldt County.

LOCATION: Elk River Road near Highway 101, Eureka, Humboldt County.

EXHIBITS

- Exhibit 1: [Project Location Map and Photos](#)
Exhibit 2: [Conceptual Design](#)
Exhibit 3: [Elk River Estuary Habitat Restoration Project Report](#)
Exhibit 4: [Support Letters](#)
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RESOLUTION AND FINDINGS

Staff recommends that the State Coastal Conservancy adopt the following resolution and findings.

Resolution:

The State Coastal Conservancy hereby authorizes a grant of an amount not to exceed five million five hundred thousand dollars (\$5,500,000) to California Trout (“the grantee”) to acquire the 175-acre Prior Ranch (Assessor Parcel Numbers 302-181-008, 304-191-001, 305-021-003, and 305-181-004) and to prepare restoration designs, environmental review materials, and permit applications for the Elk River Habitat Restoration Project in Humboldt County subject to the following conditions:

For the acquisition component of the project:

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, and;
 - c. 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 the following acquisition purposes: preservation of open space, protection and restoration of natural resources and wildlife habitat, protection of cultural resources; providing public access; and agricultural use and tribal cultural use consistent with wildlife habitat and public access. 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.

Prior to commencement of the planning component of the project, the grantee shall submit for the review and written approval of the Executive Officer of the Conservancy (Executive Officer) the following:

1. A detailed work program, schedule, and budget.
2. Names and qualifications of any contractors to be retained in carrying out the project.
3. Evidence that the grantee has entered into access agreements sufficient to enable the grantee to advance the project.

Findings:

Based on the accompanying staff recommendation and attached exhibits, the State Coastal Conservancy hereby finds that:

1. The proposed authorization is consistent with Chapter 3 of Division 21 regarding greenhouse gas emissions, and Chapter 5.5 of Division 21 of the Public Resources Code, regarding enhancement of natural resources.
 2. The proposed project is consistent with the current Conservancy Project Selection Criteria.
 3. California Trout, Inc. is a nonprofit organization organized under section 501(c)(3) of the U.S. Internal Revenue Code.
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STAFF RECOMMENDATION

PROJECT SUMMARY:

Staff recommends the Conservancy authorize disbursement of up to \$5,500,000 to California Trout, Inc. (Cal Trout) to acquire the 175-acre Prior Ranch (Exhibit 1), and to prepare restoration designs, environmental review materials under the California Environmental Quality Act (CEQA), and permit applications for the Elk River Habitat Restoration Project in Humboldt County. The purpose of the acquisition is to manage and operate the property for the following acquisition purposes: preservation of open space, protection and restoration of natural resources and wildlife habitat, protection of cultural resources; providing public access, and; agricultural use and tribal cultural use consistent with wildlife habitat and public access. The property shall be permanently dedicated to those purposes by an appropriate instrument approved by the Executive Officer. The Conservancy-funded conceptual design for this project proposes restored natural tidal and fluvial drainage patterns across an 857-acre project area (Exhibit 2) that comprises the Prior Ranch, the California Department of Fish and Wildlife's 104-acre Elk River Wildlife Area, and several private properties whose owners are familiar with the plan and supportive of the drainage improvements implementing the plan would provide. The acquisition and restoration design represents the launch of a restoration and coastal resilience vision cultivated for years and represented in detail in the Conservancy funded Elk River Estuary Habitat Restoration Project Report (Exhibit 3).

The lower Elk River valley has been plagued for decades with a combination of nuisance flooding caused by aggressive timber harvest in the surrounding uplands and increased tidal inundation caused by a combination of subsidence and sea level rise. In addition, agricultural activities in the lower river and estuary have resulted in the infestation of the area with numerous non-native plant species, including reed canary grass. The restoration plan seeks to provide improved drainage of upstream areas, restored estuarine habitat downstream, planned retreat of agriculture from areas no longer suitable for coastal agriculture, and installation of infrastructure capable of providing adaptability to rising seas. The outcome of the project will be both habitat and agriculturally productive areas that are more resilient to peak flood events and sea level rise.

Acquisition of the Prior Ranch will support the ability to plan for an expansive restoration of this planning area, while also allowing planned retreat of agriculture and infrastructure from areas increasingly impacted by sea level rise, as well as provision of public access and protection of key infrastructure, open space, wildlife habitat and cultural resources. The 175-acre property is not enrolled in a Williamson Act contract and provides a keystone acquisition to support the broader restoration project. The acquisition includes two parcels on the north side of the valley bordering Swain Slough and Elk River Road (near the Conservancy funded Martin Slough project); a third parcel along Elk River Road one mile east of Pine Hill Road that straddles an abandoned section of Swain Slough, and a fourth parcel on the south side of the valley that has approximately 2,600 feet of Elk River frontage, and that borders the Elk River Wildlife Area.

The four parcels proposed for acquisition are important for the following reasons: (1) The two Pine Hill properties, totaling 39.78 acres, are already converting to salt marsh due to unmaintained earthen dikes along Swain Slough combined with the expanded tidal prism

allowed by the Martin Slough project. Their acquisition would facilitate planned retreat of agricultural use and remove these parcels as a constraint to expanding the tidal prism further up Swain Slough, and eventually into Martin Slough. Their acquisition and subsequent potential enhancement could provide a habitat linkage between the Elk River Wildlife Area and the Martin Slough Enhancement Project (a Conservancy funded restoration project); (2) The larger 99.72 acre parcel along Elk River Road would enable more ecologically significant restoration along a proposed extension of Swain Slough and the re-connection of the Elk River to Orton Creek, including an expanded riparian habitat corridor, freshwater wetlands and prairie grasslands, removal of invasive vegetation (reed canary grass), as well as potentially improving public access amenities for the Elk River Wildlife Area; (3) The fourth parcel, a 35 acre parcel to the south of Elk River would allow restoration of tidal marsh and upland scrub habitat, as well as a potential to return this parcel to the Wiyot Tribe.

While final disposition of the properties has not been determined, the Wiyot Tribe has expressed an interest in receiving the 35-acre fourth parcel due to its cultural significance and natural resource value and has authorized Tribal administrative staff to consult with CalTrout and the Conservancy to support the acquisition. The California Department of Fish and Wildlife has indicated interest in expanding the Elk River Wildlife Area by taking title to the remaining three parcels.

The broader restoration goal for the 875-acre planning area would potentially be achieved by removing or upgrading drainage infrastructure (tide gates, culverts, drainage ditches); removing and breaching levees; removing a relict railroad grade; restoring tidal sloughs and tidal creek channels and their connectivity to mainstem channels; and lightly recontouring portions of the floodplain to guide winter flood-flows across the floodplain and back into the slough channel network toward suitable aquatic habitat. Construction of off-channel ponds and backwater features connected to Elk River would provide seasonal waterfowl and winter rearing habitat for listed salmonids and other sensitive fish species.

The Restoration Report (Exhibit 3) included extensive planning and research, such as data collection, cultural resource evaluation, hydraulic modeling of the area, and consultation and coordination with the regulatory community and the Wiyot Tribe. This information that informed a conceptual design will now lead to more detailed studies needed to prepare a detailed engineering design covering a broad and diverse landscape. Cal Trout will complete a CEQA document, a 65% design level restoration plan, and all necessary permit applications.

Site Description: The lower Elk River Valley is located immediately south of the City of Eureka. The Elk River mouth, site of the City of Eureka's recently completed Elk River Estuary Restoration Project (also Conservancy funded), enters Humboldt Bay in Eureka city limits adjacent to Highway 101. The proposed acquisition is a 175-acre ranch located along Elk River Road, one mile upstream of Highway 101. The property is owned by the Robert Prior Family who intends to transfer their agricultural operations via an IRS Code §1031 exchange to a new site immediately upon sale of this ranch. Agricultural use may continue on the property during the enhancement planning period and transition to new ownership.

The Elk River Valley was once an ecologically rich and variable landscape, comprised of dunes and tidal marshes, prairie grasslands, patches of deciduous and coniferous forests, and productive wetland habitat. This verdant area is also the ancestral home of The Wiyot.

Nearly all this habitat was lost to agricultural conversion following Euro-American settlement of this region beginning in the 1850s. This planning area is acutely vulnerable to sea level rise and other climate change effects, such as increased flow variability. Directly opposite the Humboldt Bay harbor entrance and characterized by low-elevation, subsiding diked former tidelands, the water control infrastructures are aged and neglected, and as a result, habitat conversion is already occurring in unmaintained pastures. Pastures, infrastructure and roads in this vicinity flood during seasonal king tides and storms. This condition is expected to worsen in coming years. As such, this project is part of a managed retreat strategy.

Grant Applicant Qualifications: California Trout has an extensive record of achievement on the Northcoast and elsewhere, including the completion last year of the Mad River Floodplain Restoration and Public Access Project as well as the feasibility study and conceptual design for the currently proposed project. California Trout has successfully managed multiple Conservancy grants for restoration design and implementation. They have also expressed the willingness and financial ability to hold the property temporarily while final disposition of the acquired property is determined.

CONSISTENCY WITH CONSERVANCY'S PROJECT SELECTION CRITERIA:

The proposed project is consistent with the Conservancy's Project Selection Criteria, last updated on September 23, 2021, in the following respects:

Selection Criteria

1. Extent to which the project helps the Conservancy accomplish the objectives in the Strategic Plan.

See the "Consistency with Conservancy's Strategic Plan" section below.

2. Project is a good investment of state resources.

The Elk River is the largest tributary to Humboldt Bay and, historically, the largest producer of salmon and steelhead there. Restoration of this area is of paramount importance to the ecological function of the Elk River watershed, and to the recovery of salmon and steelhead and other fish and wildlife populations.

Having completed the feasibility study and pre-design for the project, as well as conducted a multi-year outreach and education effort on the merits of the proposed restoration approach, the grantee has demonstrated the potential to design a relatively cost-effective restoration of an entire lower river valley and estuary, while also providing managed retreat from sea-level rise in the area.

The acquisition and proposed project represent an important milestone in a multi-year planning process involving numerous individuals and entities. Cal Trout has engaged with a broad advisory committee including state and federal agencies, the Northcoast Regional Land Trust, and the Wiyot Tribe. In addition, Cal Trout has partnered with the North Coast Regional Water

Quality Control Board on the Elk River Stewardship Program, a collaborative effort to redress extensive watershed deterioration resulting from inappropriate land use decisions of the past.

Finally, acquisition and restoration of the Prior Ranch advances the State's 30x30 Executive Order by acquiring, restoring, and protecting valuable estuarine and riverine habitat.

3. Project includes a serious effort to engage tribes. Examples of tribal engagement include good faith, documented efforts to work with tribes traditionally and culturally affiliated to the project area.

Engagement with the Wiyot Tribe is an integral part of this project, which includes a proposal now in its early stages to transfer part of the property to the Wiyot Tribal Government. The Tribal Council has expressed interest in taking title to a portion of Prior Ranch. Cal Trout has a productive relationship with the Wiyot Tribe. This working relationship has enabled Cal Trout and Wiyot to co-develop interpretive signs for the recently completed Mad River Floodplain and Public Access Project nearby. This same approach would be used at this site.

4. Project benefits will be sustainable or resilient over the project lifespan.

As discussed earlier, watershed deterioration and flooding, combined with sea level rise and saltwater input has rendered much of the agricultural area less productive and threatened a water line, roads and other infrastructure. The planning process will explore sacrificing some existing pasture, but in so doing, achieving better drainage and protection against sea level rise for areas upstream for the foreseeable future.

The project design will likely include features such as adjustable tide gates to enable more flexible water management and fish passage, a relocated water line, sloping berms that enable gradual migration of habitat types and species in the context of rising sea levels, and restored channels that provide greater hydraulic conveyance capacity for flood flows.

5. Project delivers multiple benefits and significant positive impact.

As described earlier, historic land use in the Elk River watershed converted the most productive salmon producing watershed in Humboldt Bay into an aggraded, mud-choked channel prone to frequent nuisance flooding and degradation of rural water systems. Due to watershed deterioration, even the agricultural values of the valley have diminished.

The proposed project seeks to reverse that degradation by planning to restore fluvial and estuarine processes and habitat. In so doing, the project will also plan to provide open space opportunities, carbon sequestration in restored marsh, community preparedness for flood resilience and sea level rise adaptation by restoring floodplain habitat, and, potentially, providing another opportunity to dedicate private land to a tribe displaced from much of their ancestral territory.

6. Project planned with meaningful community engagement and broad community support.

Both the formation of the Project Advisory Committee (PAC) and the advancement of the Elk River Watershed Stewardship Program by the North Coast Regional Water Quality Control

Board have created numerous opportunities for community engagement by landowners, local residents, and others.

PROJECT FINANCING

Coastal Conservancy	\$5.5 million
<i>Acquisition</i>	<i>\$1.8 million</i>
<i>Planning</i>	<i>\$3.7 million</i>
Project Total	\$5.5 million

Conservancy funding is anticipated to come from a Fiscal Year 2022/23 appropriation from the Greenhouse Gas Reduction Fund (GGRF) to the Conservancy for the Climate Ready program for purposes of nature-based projects that address sea level rise (Budget Act of 2022, as amended by AB 178, Chapter 45, Statutes of 2022). The Greenhouse Gas Reduction Fund Investment Plan and Communities Revitalization Act (Health and Safety Code (HSC) Sections 39710 – 39723) requires that GGRF funds be used to (1) facilitate the achievement of reductions of Greenhouse Gas (GHG) emissions consistent with the Global Warming Solutions Act of 2006 (HSC Sections 38500 *et seq*), and (2) to the extent feasible, achieve other co-benefits, such as maximizing economic, environmental and public health benefits and directing investment to disadvantaged communities (HSC 39712(b)). The Global Warming Solutions Act of 2006 sets forth (among other things) certain GGRF funding priorities (HSC Section 38590.1). The California Air Resources Board (CARB) has adopted guidelines that establish program goals that agencies must achieve with their GGRF funds.

Consistent with the CARB 2018 Funding Guidelines, the proposed project will help the Conservancy meet its GGRF program goals because the project will:

- Facilitate GHG emission reductions (which includes carbon sequestration) and further the purposes of AB 32 and related statutes: Restored wetland habitat in the project area will facilitate carbon sequestration.
- Benefit Priority Populations (disadvantaged communities, low-income communities, or low-income households): The proposed project is located in a low-income community and will reduce flooding and generate jobs within this community.
- Maximize economic, environmental, and public health co-benefits to the State: See “Consistency with Conservancy Project Selection Criteria” section above.
- Foster job creation and job training, wherever possible: The project is expected to create restoration jobs during planning and construction, and maintain agricultural jobs by prolonging the useful life of adjacent agricultural lands.
- Leverage funds to provide multiple benefits and to maximize benefits: In-kind contributions from California Trout and California Department of Fish and Wildlife will leverage the Conservancy’s grant funds.

Cal Trout will provide cash match for pre-acquisition work, as well as significant in-kind match in the form of public outreach meetings, coordination with the property owner and more.

Similarly, and as with other local projects such as the Salt River Ecosystem Restoration Project and the Ocean Ranch Restoration Project, the California Department of Fish and Wildlife has indicated their willingness to commit staff resources to pre and post-project monitoring to assess the efficacy of restoration activities. They have also agreed to receive title to a portion of or all of the property for management in perpetuity as an expanded Elk River Wildlife Area.

Unless specifically identified as “Required Match,” the other sources of funding and in-kind contributions described above are estimates. The Conservancy does not typically require matching funds or in-kind services, nor does it require documentation of expenditures from other funders or of in-kind services. Typical grant conditions require grantees to provide any funds needed to complete a project.

CONSISTENCY WITH CONSERVANCY’S ENABLING LEGISLATION:

Consistent with Division 21 Chapter 3, Section 31113, the conservancy may undertake projects within its jurisdiction, including, but not limited to, those that reduce greenhouse gas emissions, address extreme weather events, sea level rise, storm surge, beach and bluff erosion, saltwater intrusion, flooding, and other coastal hazards that threaten coastal communities, infrastructure, and natural resources.

The acquisition enables planned retreat from areas susceptible to sea level rise. The enhancement plan will enable the community to adapt local infrastructure such as roads and waterlines currently threatened by flooding and coastal hazards, while also enhancing the natural resources of the area with this nature-based solution to sea level rise and flooding.

Consistent with Division 21 Chapter 5.5 Section 31220 the Conservancy may undertake projects in order to “improve and protect coastal and marine water quality and habitats.” Among other things, the project will: 1) reduce contamination of waters within the coastal zone by reducing sediment inputs and increasing marsh habitat; 2) protect and restore fish and wildlife habitat within coastal waters and watersheds by acquiring and restoring habitat; 3) Reduce threats to coastal and marine fish and wildlife by reducing sediment sources and increasing sediment storage capacity in the floodplain; 4) Reduce unnatural erosion and sedimentation of coastal watersheds and contribute to the reestablishment of natural erosion and sediment cycles by restoring connectivity between the river and floodplain while also working to reduce sediment inputs from upstream.

As described in greater detail in “Consistency with Local Watershed Management Plan...”, below, Cal Trout and Conservancy staff have consulted frequently with staff at the North Coast Regional Water Quality Control Board and co-funded planning grants and pilot projects intended to help the State achieve sediment load goals for the Elk River watershed.

CONSISTENCY WITH CONSERVANCY’S [2023-2027 STRATEGIC PLAN](#):

Consistent with **Goal 3.1 Conserve Land**, the project will protect 175-acres of agricultural land with the goal of future restoration.

Consistent with **Goal 3.2 Restore or Enhance Habitats**, the proposed project will develop a plan for protecting and enhancing 857-acres of degraded lower Elk River and estuary.

Consistent with **Goal 4.1 Sea Level Rise Adaptation Projects**, the proposed project will develop a plan for nature-based adaptation to sea level rise.

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

The Elk River watershed is the focus of a decades-long, multi-phased program to resolve legacy sediment and water quality impairment issues that resulted from excessive timber harvesting. These efforts are codified in the Upper Elk River Sediment TMDL Action Plan adopted by the North Coast Regional Water Quality Control Board (Regional Water Board) and are being implemented through a nonregulatory *Elk River Watershed Stewardship Program*, of which Cal Trout and the Conservancy are participants. The intent of the Stewardship Program is to improve hydrologic and sediment processes, water quality conditions, and aquatic and riparian habitat functions in Elk River, and ultimately reduce nuisance flooding and the consequent risks to rural residential properties in this economically disadvantaged community.

Due to its large size and complexity, the Stewardship Project Area is partitioned into four Planning Areas that are a manageable scale for regulatory compliance and engineering design. Planning Area 1, the subject of a restoration design funded by the Coastal Conservancy, is the 857-acre Elk River Lower Valley and Tidal Estuarine Reaches.

CEQA COMPLIANCE:

Transfers of ownership of interests in land in order to preserve open space, habitat or historical resources are categorically exempt under CEQA §15325 (c). Such transfers include the acquisition, sale, or other transfers to allow restoration of natural conditions, including plant or animal habitats.

The proposed planning project consists of preparing studies to determine what future actions are needed to restore the project site and reduce flood risk locally. Thus, the proposed project involves only data gathering, resource evaluation, planning, and feasibility analyses for possible future actions that have not yet been approved or funded. These activities are statutorily exempt from review under CEQA pursuant to Title 14 of the California Code of Regulations section 15262, which exempts planning and feasibility studies for possible future actions that have not yet been approved, adopted, or funded; and categorically exempt under Section 15306, which exempts data collection and resource evaluation activities that do not result in a serious or major disturbance to an environmental resource. Consistent with Section 15262, the project will consider environmental factors. Consistent with Section 15306, the data collection and resource evaluation components of the project will not cause major or serious disturbance to the environment.

Staff will file a Notice of Exemption upon approval.