

COASTAL CONSERVANCY

Staff Recommendation
November 30, 2023

BUSH PARCEL ACQUISITION

Project No. 22-083-01
Project Manager: Joel Gerwein

RECOMMENDED ACTION: Authorization to disburse up to \$725,000 to the Elk Valley Rancheria, California for the acquisition of the 9.19-acre Bush parcel on Crescent Beach, south of Crescent City, in Del Norte County (the “property”), for preparation of a plan for that property for wildlife habitat enhancement and public access, and for removal of invasive species on the property. The property will be acquired for protecting open space, protecting public and tribal access, protecting and enhancing wildlife habitat, and sea level rise adaptation measures, including measures to protect nearby roads and highways, consistent with open space and habitat protection.

LOCATION: Crescent Beach, Del Norte County

EXHIBITS

Exhibit 1: [Project Location Map](#)

Exhibit 2: [Site photographs](#)

Exhibit 3: [Project Letters](#)

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 seven hundred twenty-five thousand dollars (\$725,000) to the Elk Valley Rancheria, California (“the grantee”) for the acquisition of the 9.19-acre Bush parcel (Del Norte County Assessor Parcel No. 115-030-007) on Crescent Beach, south of Crescent City, in Del Norte County, for the purposes of protecting open space, protecting public and tribal access, protecting and enhancing wildlife habitat, and sea level rise adaptation measures, including measures to protect nearby roads and highways, consistent with open space and habitat protection; and for preparation of a plan for wildlife habitat enhancement and public access for the property, and

for removal of invasive species on the property. The grant is authorized 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; 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 protecting open space, protecting public and tribal access, protecting and enhancing wildlife habitat, and sea level rise adaptation measures, including measures to protect nearby roads and highways, consistent with open space and habitat protection. 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.
5. Prior to the disbursement of funds for enhancement planning and invasive species removal, the grantee shall submit for the review and written approval of the Executive Officer of the Conservancy (Executive Officer) the following:
 - a. A detailed work program, schedule, and budget.
 - b. Names and qualifications of any contractors to be retained in carrying out the project.
 - c. A plan for acknowledgement of Conservancy funding.
 - d. Evidence that all permits and approvals required to implement the project have been obtained.

Findings:

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

1. The proposed authorization is consistent with Section 31113 of Chapter 3 of Division 21 of the Public Resources Code, regarding the Climate Ready Program.
2. The proposed project is consistent with the current Conservancy Project Selection Criteria.

STAFF RECOMMENDATION

PROJECT SUMMARY:

Staff recommends the Conservancy authorize a grant of up to \$725,000 to the Elk Valley Rancheria, California (Tribe) for the acquisition of the 9.19-acre Bush parcel on Crescent Beach, south of Crescent City, in Del Norte County (the “property”) (Exhibit 1), for preparation of a plan for public access and wildlife habitat enhancement for the property, and for removal of invasive species (the “project”). The property would be acquired for protecting open space, protecting public and tribal access, protecting and enhancing wildlife habitat, and sea level rise adaptation measures, including measures to protect nearby roads and highways, consistent with open space and habitat protection; and for preparation of a plan for wildlife habitat enhancement and public access for the property, and for removal of invasive species on the property.

Acquisition of this property by the Tribe will provide needed beach access for tribal members and the public. The property encompasses a portion of Crescent Beach, a broad sandy beach that runs unbroken for about three miles south from Crescent City Harbor. Acquisition will also allow for enhancement of coastal scrub through the removal of invasive plants and planting of natives, and the prevention of unregulated encampments. The Tribe will have an active presence on the property, managing appropriate access and preventing unpermitted camping. Currently, there is no management of the property. The property supports coastal wetlands associated with the creek channel, and riparian vegetation, both of which are identified as Environmentally Sensitive Habitat Areas worthy of protection in the 2003 Del Norte County General Plan. The property also supports two rare plant species, beach pea and Wolf’s evening primrose.

In addition, acquisition will facilitate planning by the Tribe and its partners to reduce flooding of Highway 101 and other area roadways due to sea level rise. The Tribe, Del Norte Local Transportation Commission, and Crescent City Harbor District are partnering on securing grant funding to undertake climate adaptation planning efforts to address increased closures, damage, and loss of service on nearby roadway facilities due to climate related sea level rise and increasing storm severity resulting in flooding. These efforts will include addressing roadway flooding issues on Highway 101 related to the drainage that bisects the property. The planning effort is expected to result in recommendations for modifying the culvert that connects the property with the Crescent City Marsh Wildlife Area east of Highway 101 to reduce the occurrence and severity of flooding on the highway, which is a critical transportation corridor for the region, while maintaining habitat quality on the property and in the Crescent City Marsh.

The property is currently privately owned and zoned for Coastal Recreation. In 2003, a coastal development permit was approved for the property to allow a souvenir shop with a second-story owner’s residence. The building was never constructed, but the property remains vulnerable to commercial development and associated loss of habitat.

The Tribal membership has been informed and engaged regarding the project. It has been discussed monthly at regularly scheduled Tribal Council meetings, including the Annual Tribal

Membership meeting, which is well attended. Additionally, this project is included in the Tribal Membership newsletter. Upon award, Tribal staff will continue to provide updates to Tribal Council and membership monthly as the project progresses.

The project involves acquisition of the property, planning for wildlife habitat and access enhancement, and invasive species removal. The acquisition of the property is expected to close by December 31, 2023. The Tribe has entered into a purchase and sale agreement with the landowner. An appraisal has been conducted, establishing the property's fair market value as \$600,000, and has been approved by the California Department of General Services. A preliminary title report, Phase I Environmental Assessment, and Baseline Conditions Report have been prepared and reviewed by Conservancy staff. No issues of concern have emerged from these pre-acquisition studies. Conservancy staff and the Tribe agree on the terms of the Declaration of Restrictive Covenants to be recorded over the property.

Once the property is acquired, the Tribe will plan for invasives removal and for wildlife habitat and public access enhancement for the site. The Tribe will assess the invasive plant species at the site, develop a plan for their removal and for future management to prevent their reestablishment, obtain any required permits for the work, and hire a crew to remove the invasive plants. The Tribe will also develop a plan for improving access and installing recreational amenities at the site as well as long-term management for recreational use. The plan will include recommendations for measures to make parking and trails on the site ADA accessible. Recreational amenities could include improvements to the existing parking area and the addition of picnic tables and educational signage. Any recreational amenities would be installed in the unvegetated, upland areas of the site.

Site Description:

The 9.19-acre property contains a portion of Crescent Beach and is bordered to the north by a residence and the Crescent Beach Motel, to the east by Highway 101 and the Crescent City Marsh Wildlife Area, to the south by Crescent Beach and undeveloped coastline owned by the State of California as part of Redwood National and State Park, and to the west by the Pacific Ocean (Exhibit 2). The property contains approximately 5.1 acres of beach, 3.4 acres of coastal scrub habitat dominated by alder, willow, and shore pine, and 0.7 acres of sandy area with minimal vegetation on the upland portion of the site. Invasive species including English ivy, European beach grass, ice plant, and Himalayan blackberry are found throughout the coastal scrub habitat. A small unnamed creek bisects the property which flows from a culvert under the highway and drains the nearby Crescent City Marsh Wildlife Area, which is owned and managed by the California Department of Fish and Wildlife. The site currently contains a few informal trails that are used by the public to provide access between informal, unpaved parking areas along the shoulder of Highway 101 and the beach. The main trail providing access through the property is located on the eastern edge of the site and appears to have been developed in the past as a rudimentary road. Several large boulders currently restrict vehicular access into the property via the main trail. The property contains evidence of past trespassing and camping activities including vegetation removal and informal trail development to provide access to camping sites.

Grant Applicant Qualifications:

The Elk Valley Rancheria, California has an excellent track record of successfully managing state and federal grants, with a portfolio of over \$18 million. The Tribe has the financial capacity and integrity to successfully manage these funds. The Tribe manages and maintains open space properties as well as developed properties. The Tribe is a Federally Recognized Tribal Government and operates an Office of Self-Governance.

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 project will deliver multiple benefits, discussed below in Criterion 5, for a reasonable cost.

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.

The Grantee is a Federally Recognized Tribal Government, and members of the Tribe will be engaged in the project and future management of the property. This project is in Tolowa ancestral territory. The Tolowa Dee Ni' Nation is in full support of the project (Exhibit 3).

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

The project will benefit the local area over the long-term through improved site management by a local Tribe, preservation of coastal scrub habitat, and nature-based resiliency. The project will protect the Del Norte County coast and shoreline by restoring coastal scrub habitat through the removal of invasive plant species and development of a long-term invasive species management plan. These actions will minimize the spread of invasive species to sensitive riparian and wetland habitats in the adjacent Crescent City Marsh Wildlife Area. Protecting and restoring this natural ecosystem offers a cost-effective adaptation solution against rising sea levels. These coastal habitats store water, stabilize sediment, prevent erosion, provide habitat for wildlife, and reduce impacts from flooding and storm surge. In addition, the project will facilitate sea-level rise adaptation planning to maintain habitat and access on site, while reducing climate change impacts to Highway 101 and the Crescent City Marsh.

The project furthers the goals of the State Agency Sea Level Rise Action Plan. The Plan states that on-the-ground sea level rise adaptation projects need to be implemented within this decade, and that these projects should prioritize the conservation of coastal habitats and maintaining biodiversity and associated functions. The project is consistent with Principle 6.3:

Plan, implement, and fund nature-based solutions, strategies, and actions to increase coastal resiliency through flood reduction, habitat restoration, and protection of cultural resources and public access infrastructure, especially at the most vulnerable coastal recreational facilities. Consistent with this principle, acquisition of the property by the Tribe will facilitate planning of sea level rise adaptation measures to reduce flooding of Highway 101, such as by planning to improve management of the culvert that connects the property to Crescent City Marsh. While preparation of a sea level rise adaptation plan is not part of this project, it is part of a related project the Tribe is working on with multiple partners described above. Tribal ownership of the parcel will facilitate sea level rise adaptation planning.

5. Project delivers multiple benefits and significant positive impact.

Property acquisition and management planning will have multiple benefits. First and foremost, the project will return coastal land to the Tribe, allowing for Tribal members to have easy access to a large beach for cultural and recreational activities. Secondly, it will protect and enhance public access to the beach, including the potential provision of ADA trail access. In addition, the project will facilitate enhancement of valuable habitat, and protect the valuable habitat in the adjacent Crescent City Marsh from invasive species. Lastly, the project will facilitate urgent sea-level rise adaptation to reduce flooding of Highway 101, a critical transportation corridor for the entire region.

PROJECT FINANCING

Coastal Conservancy	\$725,000
Project Total	\$725,000

Conservancy funding is anticipated to come from a Fiscal Year 2022/23 appropriation from the Greenhouse Gas Reduction Fund (GGRF) to the Conservancy for urgent sea level rise adaptation and coastal resilience needs (Budget Act of 2022, as amended by the Budget Act of 2023, SB 101, Chapter 12, Statutes of 2023). 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 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 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 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;

- Benefit Priority Populations (disadvantaged communities, low-income communities, or low-income households);
- Maximize economic, environmental, and public health co-benefits to the State; and
- Avoid substantial burdens to disadvantaged communities and low-income communities.

The proposed project will meet these objectives by enhancing coastal scrub and riparian habitat to improve resilience of the property and adjacent property to sea-level rise and storm surge. Further, the project facilitates the preparation of a plan to reduce flooding of Highway 101, such as by planning to improve management of the culvert that connects the property to Crescent City Marsh. While preparation of a sea level rise adaptation plan is not part of this project, it is part of a related project the Tribe is working on with multiple partners described above. Thus, Tribal ownership of the parcel will facilitate sea level rise adaptation planning. The removal of invasive species and long-term management plan will enable avoidance of flooding and infrastructure damage and the resulting GHG emissions from remediation and rebuilding. Increased resilience of Highway 101 will also reduce substantial burdens to disadvantaged and low-income communities in the region that depend on this critical transportation corridor. The project also benefits disadvantaged communities by providing easy coastal access to Tribal members living within the nearby disadvantaged communities. The project will provide economic benefits to the State by expanding public access in the area, increasing its attractiveness as a tourism destination. As described in this staff recommendation, in selecting this project for a grant, the Conservancy has considered its Strategic Plan, State Agency Sea Level Rise Action Plan, geographic areas of vulnerability, disadvantaged communities, and opportunities for federal financial support.

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:

The proposed project would be undertaken pursuant to Section 31113 of Chapter 3 of Division 21 of the Public Resources Code, which authorizes the Conservancy to undertake projects to address the impacts and potential impacts of climate change on resources within the Conservancy’s jurisdiction.

Pursuant to Section 31113(b), the Conservancy is authorized to award grants to nonprofit organizations and public agencies to undertake projects, including those that reduce greenhouse gas emissions or address extreme weather events, sea level rise, flooding, and other coastal hazards that threaten coastal communities, infrastructure, and natural resources.

Pursuant to Section 31113(c), the Conservancy must prioritize grants for projects that maximize public benefits and have one of several purposes, including enhancing coastal natural lands and reducing flood risk.

Pursuant to Section 31113(d)(1)(B), the Conservancy must prioritize grants for projects that provide multiple public benefits, including, but not limited to, protection of communities, natural resources, and recreational opportunities.

Pursuant to Section 31113(d)(1)(C), the Conservancy must prioritize grants for projects in a variety of ecosystems along the state's coastline. Consistent with these provisions, the proposed authorization would award a grant to the Elk Valley Rancheria, a Federally Recognized Tribal government, to protect and enhance coastal habitat and facilitate the increased resilience of the Del Norte coast and Highway 101 to sea-level rise, increased storm surge, and other impacts associated with climate change, and facilitate enhanced public and tribal access to the coast. The proposed project would also enhance coastal scrub habitat by removing invasive plants.

The proposed project addresses resources within the Conservancy's jurisdiction by restoring coastal resources that have suffered a loss of natural value due to the introduction of invasive species and other human-induced events (Chapter 6 of Division 21 of the Public Resources Code).

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

Consistent with **Goal 1.2 Return Power to Tribes**, the proposed project would return control of 9.19-acres of ancestral land to the Elk Valley Rancheria.

Consistent with **Goal 3.1 Conserve Land**, the proposed project would protect 9.19-acres of land to protect coastal resources and enhance habitat.

Consistent with **Goal 3.2 Restore or Enhance Habitats**, the proposed project would enhance 4-acres of land by removing invasive species.

CEQA COMPLIANCE:

The proposed funding authorization is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Title 14 of the California Code of Regulations Section 15313 because this project is an acquisition of land to preserve fish and wildlife habitat; and Section 15325 because the project involves the transfer of ownership interests in land to preserve open space or enhance natural conditions, including plant or animal habitats. The proposed project will preserve the existing natural conditions and habitats of the property.

The project's planning component is also exempt from CEQA because it 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 CEQA pursuant to 14 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.

The invasives removal component of the project consists of removing less than 4-acres of invasive plant species. These activities are categorically exempt under 14 California Code of Regulations Section 15304 (Minor Alterations to Land) because removing trash and invasive species and planting native plants are landscaping activities that do not involve removal of healthy, mature, scenic trees.

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