

COASTAL CONSERVANCY

Staff Recommendation
June 25, 2015

JOINT POWERS AGREEMENT WITH SIERRA NEVADA CONSERVANCY

Project Number: 15-014-01
Project Manager: Karyn Gear

RECOMMENDED ACTION: Consideration and possible authorization to enter into a joint powers agreement with the Sierra Nevada Conservancy concerning monitoring and enforcement of U.S. Forest Service obligations to protect property in the Eel River watershed.

LOCATION: Upper Eel River Watershed, Mendocino and Lake Counties

PROGRAM CATEGORY: Integrated Marine and Coastal Resources Protection

EXHIBITS

Exhibit 1: [Project Location](#)

Exhibit 2: [Draft Joint Powers Agreement](#)

RESOLUTION

Staff recommends that the State Coastal Conservancy adopt the following resolution pursuant to Public Resources Code § 31220 and Government Code § 6502:

“The State Coastal Conservancy hereby authorizes the Executive Officer to enter into a joint powers agreement with the Sierra Nevada Conservancy for purposes of protecting certain property within the Eel River watershed as shown in Exhibit 1 to the accompanying staff recommendation.”

BACKGROUND

The Sierra Nevada Conservancy (“SNC”) is a state agency that has authority to accept funds, award grants and undertake projects for purposes of protecting the resources of the Sierra Nevada region of California. In particular, Division 23 of the Public Resources Code charges the SNC with protecting water quality, providing increased opportunities for tourism and recreation, aiding in preservation of working landscapes, and protecting the physical, cultural, archaeological, historical and living resources of the Sierra Nevada Region, which is a geographical area defined in Division 23. In accordance with its enabling legislation, SNC is implementing the Conservation Covenant Project (“Project”), pursuant to which SNC monitors and enforces U.S. Forest Service (“USFS”) promises to protect the beneficial public values of

lands USFS has obtained from Pacific Gas and Electric (“PG&E”). The Project arose in connection with a 2003 settlement agreement between PG&E and the California Public Utilities Commission; the settlement agreement obligated PG&E to protect, through donation of easement or fee interest in, 140,000 acres of watershed lands (“Watershed Lands”) in California. The Pacific Forest and Watershed Lands Stewardship Council, a California nonprofit public benefit corporation (“Stewardship Council”) oversees the PG&E obligation to protect the Watershed Lands, and has approved the transfer of certain of these lands to USFS. When Watershed Lands are granted to USFS, SNC and USFS enter into a recorded conservation covenant; the conservation covenant obligates USFS to preserve beneficial public values of the Watershed Lands and gives SNC the authority to monitor and enforce these obligations. The beneficial public values include the natural habitat of fish, wildlife and plants; open space; outdoor recreation; sustainable forestry; agricultural uses; and historic values. The Stewardship Council has granted funds to SNC for implementation of the Project.

Most of the Watershed Lands are located within the Sierra Nevada Region, within the jurisdiction of the SNC. However, there is one area of Watershed Lands that is located in Mendocino and Lake Counties in the Eel River watershed as shown in Exhibit 1, outside of SNC’s jurisdiction. The Stewardship Council intends for PG&E to donate approximately 891 acres within the Eel River watershed near Lake Pillsbury to USFS (the “Eel River Property”) subject to USFS entering into a conservation covenant with a public agency. The Eel River Property comprises four separate parcels adjacent to existing Mendocino National Forest lands, and consists primarily of steep, forested and riverbed terrain, though one parcel includes a meadow. Anadromous fish access a portion of the Eel River Property, and bald eagles and osprey are known to nest in the vicinity. The Stewardship Council is willing to grant funds for the public agency’s monitoring and enforcement of the USFS obligations under the conservation covenant.

The Coastal Conservancy has authority to protect the beneficial public values of the Eel River Property under Division 21 of the Public Resources Code. In particular, Chapter 5.5 of Division 21 authorizes the Conservancy to undertake projects that reduce contamination of waters in the coastal zone or marine waters; protect fish and wildlife habitat within coastal and marine waters and coastal watersheds; reduce threats to coastal and marine fish and wildlife; reduce unnatural erosion and sedimentation of coastal watersheds; protect riparian areas, floodplains, and other sensitive watershed lands; and provide public access compatible with resource protection and restoration objectives. (Public Res. Code § 31220(a) and (b)(1)-(4), (6), and (8)). Acquisition of the Eel River Property by USFS and protection of the beneficial public values of the Eel River Property will help achieve these goals of Chapter 5.5. Thus, the Coastal Conservancy has authority to assist with protection the Eel River Property.

JOINT POWERS AGREEMENT

Since SNC is currently implementing the Project, staff believes it would be most efficient for SNC and the Coastal Conservancy to work together to protect the beneficial public values of the Eel River Project. The Joint Exercise of Powers Act, Government Code § 6500, *et seq.* authorizes public entities, including state agencies, to enter into agreements with each other to jointly exercise any powers common to the parties. The law allows the parties to a joint powers agreement (“JPA”) to jointly exercise their common powers in the combined geographical

jurisdiction of all parties to the agreement (Gov. Code § 6502). It also provides that one or more of the parties to a JPA may provide services to the other parties as specified in the agreement (Gov. Code § 6506). A JPA between the Coastal Conservancy and SNC would enable SNC and the Coastal Conservancy to jointly exercise their common powers to accept grants and carry out projects for protection of the Eel River Property. Pursuant to the proposed JPA, attached as Exhibit 2, SNC would implement the Project on the Eel River Property by entering into the conservation covenant with the USFS and monitoring the USFS's management of the Eel River Property. SNC would provide periodic reports to the Conservancy. The Stewardship Council would grant funds to SNC for this work. The Conservancy would not be required to expend any funds or take any direct actions with respect to the Project.

Given that protection of the Eel River Property is consistent with Chapter 5.5 of Division 21, and that entering into the JPA would enable the Conservancy to protect the property without having to expend funds or significant staff resources, staff recommends that the Conservancy enter into the JPA with SNC.

COMPLIANCE WITH CEQA

The proposed project is categorically exempt from the California Environmental Quality Act. Title 14 California Code of Regulations (CCR) Section 15306 exempts basic data collection and resource evaluation activities that do not result in serious or major disturbance to an environmental resource. The proposed joint powers agreement is for purposes of monitoring USFS use of the Eel River Property. Such monitoring entails data collection and resource evaluation activities. Accordingly, the proposed authorization is exempt from CEQA. Upon approval, staff will file a notice of exemption.