

COASTAL CONSERVANCY

Staff Recommendation

May 27, 2004

**MARSH CREEK FISH PASSAGE PROJECT**

File No. 04-029

Project Manager: Mary Small

**RECOMMENDED ACTION:** Authorization to disburse up to \$35,000 to develop detailed engineering plans and complete environmental review for a fish passage project in Marsh Creek, in the city of Brentwood, Contra Costa County.

**LOCATION:** Along Marsh Creek in the City of Brentwood, Contra Costa County (Exhibit 1)

**PROGRAM CATEGORY:** San Francisco Bay Area Conservancy

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**EXHIBITS**

Exhibit 1: Regional Map

Exhibit 2: Photos

Exhibit 3: Letters of Support

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**RESOLUTION AND FINDINGS:**

Staff recommends that the State Coastal Conservancy adopt the following resolution pursuant to Sections 31000 *et seq.* of the Public Resources Code:

“The State Coastal Conservancy hereby authorizes disbursement of an amount not to exceed thirty-five thousand dollars (\$35,000) to the Natural Heritage Institute for the development of plans to implement a fish passage improvement project on Marsh Creek in the City of Brentwood.”

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 Public Resources Code Sections 31160–31164, regarding the Conservancy’s mandate to address the resource goals of the San Francisco Bay Area.
  2. The proposed project is consistent with the Project Selection Criteria and Guidelines adopted by the Conservancy on January 24, 2001.”
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**PROJECT SUMMARY:**

The proposed project would provide grant funds to the Natural Heritage Institute (NHI) to develop engineering plans, prepare environmental documentation, and obtain permits to construct a fish passage project along Marsh Creek in the City of Brentwood.

The project would modify an existing grade control dam near the City's water treatment plant that is a barrier to fish passage at all flows (see Exhibit 2). This barrier is a concern because there are Chinook salmon spawning in lower Marsh Creek and the barrier prevents the fish from accessing approximately seven miles of riparian habitat upstream of the dam. In the fall of 2002, the Natural Heritage Institute's citizen salmon monitoring program observed as many as 45 salmon at a time congregating immediately below this drop structure. The previous spring, as a result of salmon sightings in 2001, the California Department of Fish and Game conducted a survey and found juvenile (60-80 mm) Chinook rearing in lower Marsh Creek.

The Conservancy's recent report *Inventory of Barriers to Fish Passage in California's Coastal Watersheds* found that there were very few funding sources available to pay for planning, engineering, and design work associated with fish passage projects. The Conservancy is one of the few organizations willing to fund these projects, but there are a number of other grant programs that provide funds for project construction.

In 2002, the California Department of Water Resources (DWR) Fish Passage Improvement Program selected Marsh Creek as one of three watersheds in the Bay Area to work on fish passage. DWR had planned to complete the engineering, environmental review, and permitting work. However, in December 2003, due to state budget cuts, DWR informed the project participants that it would not be able to continue to provide this assistance. This project will complete documentation needed to construct the conceptual plan developed collectively by DWR, NHI, the City of Brentwood, and the Contra Costa County Flood Control and Water Conservation District.

**Site Description:** The proposed project, when implemented, would modify a grade control dam located approximately three miles from the mouth of Marsh Creek, near the Brentwood wastewater treatment plant. The removal of the fish barrier would provide access to approximately seven miles of lower Marsh Creek, Deer Creek, and Sand Creek, including approximately three miles of suitable spawning gravels and shaded riparian stream downstream of and in the newly acquired Cowell Ranch State Park. See photos in Exhibit 2.

The Marsh Creek watershed is located in eastern Contra Costa County; it extends from Mount Diablo to the Delta (see Exhibit 1). Much of the upper watershed is protected land, including Cowell Ranch State Park and East Bay Regional Park District's Morgan Territory Preserve. A flood control reservoir, owned by Contra Costa County Flood Control District, is located upstream from the city of Brentwood and the lower section of the creek is a levied flood control channel. Marsh Creek enters the Delta between the East Bay Regional Park District's Big Break Regional Shoreline and the Department of Water Resources' Dutch Slough property.

As with most watersheds in the San Francisco Bay Area, Marsh Creek has been modified extensively during the past 200 years. The volume and the timing of water flowing down the creek have been altered and the quality of that water degraded. Historically, it is possible that the creek dried up completely in the summer, while it now flows all year. As a result, the creek may have more value for fall run Chinook today than it did historically. The shape and position of the creek have also been changed. Today, the creek is confined to a linear flood control channel in its

lower section. However, compared to other urban creeks, Marsh Creek still provides habitat for a number of native species, including: river otters, western pond turtles, and Chinook salmon.

**Project History:** In December 1999, the Coastal Conservancy authorized a grant to the Natural Heritage Institute to help fund planning of the Delta Science Center and to identify restoration opportunities in the Marsh Creek Watershed. Under the Conservancy's 1999 grant, NHI identified restoration opportunities along Marsh Creek. The City of Brentwood and NHI have received grants from the Department of Water Resources Urban Streams Program and the California Department of Parks and Recreation Riparian Program to fund two of these restoration projects.

This project would allow fish to access existing riparian habitat on the recently acquired Cowell Ranch State Park. The Conservancy was a major contributor to that acquisition, which protected nearly 4,000 acres in the Marsh Creek watershed.

In 2002, the Conservancy completed an extensive and first-of-its-kind inventory of existing fish passage barrier data for coastal California streams. In addition to identifying more than 16,000 potential barriers to fish passage, the report found that fish passage improvement projects implementation was limited by the ability of local public entities to design and permit their proposed projects. Although grant funding is available for implementation, local public entities lacked sufficient funds or staffing for project development. If approved, this authorization would facilitate project development and implementation.

**PROJECT FINANCING:**

Coastal Conservancy	\$35,000
American Rivers/NOAA grant 2004	35,000
American Rivers/NOAA grant 2002	6,000
DWR Fish Passage Improvement Program (in-kind)	<u>30,000</u>
<b>Total Project Cost</b>	<b>\$106,000</b>

The proposed source of Conservancy funds is a FY 2001/02 appropriation from the "Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection" Bond Fund (Proposition 12) to the Coastal Conservancy for the purposes of protecting, restoring, acquiring, and enhancing habitat for salmon.

**CONSISTENCY WITH CONSERVANCY'S ENABLING LEGISLATION:**

This authorization will be undertaken pursuant to Chapter 4.5 of the Conservancy's enabling legislation, Public Resources Code Sections 31160-31164, to address resource goals in the San Francisco Bay Area. Under § 31162, the Conservancy may undertake projects and award grants to achieve specified goals. Specifically, § 31162(b) directs the Conservancy to undertake projects and award grants in the San Francisco Bay Area that help achieve the goal of protecting, restoring, and enhancing natural habitats of regional importance.

Consistent with § 31162(b), the proposed funding would assist in the enhancement of the natural habitats of species of special concern. The project is expected to benefit Chinook salmon.

This project is also consistent with the prioritization criteria in § 31163(d), in the following respects:

- 1) As discussed below, the project is consistent with the City of Brentwood's General Plan.

- 2) The project serves a regional constituency by creating access to habitat for Chinook salmon, a species of statewide concern. The number of organizations cooperating on this project (the City of Brentwood, the County Flood Control District, the Resource Conservation District, Department of Fish and Game, and two nonprofit organizations) demonstrates that it is a project with regional significance.
- 3) The project will be implemented in a timely way. If approved, the final planning work is expected to be complete within a year.
- 4) Conservancy matching funds are needed to qualify for NOAA grant funds and to complete the planning work.
- 5) The project includes more than seventy thousand dollars in matching funds.

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

Consistent with **Goal 10, Objective B**, the proposed project will develop plans for the enhancement of riparian habitat through the removal of instream migration barriers for salmonids.

**CONSISTENCY WITH CONSERVANCY'S  
PROJECT SELECTION CRITERIA & GUIDELINES:**

The proposed project is consistent with the Conservancy's Project Selection Criteria and Guidelines adopted January 24, 2001, 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. **Support of the public:** The project has significant public support, including the City of Brentwood, the County Flood Control and Water Conservation District, the County Resource Conservation District, the Delta Science Center, American Rivers, the Department of Water Resources, and the Department of Fish and Game. See letters of support in Exhibit 3.
4. **Location:** The project is located in the City of Brentwood in Contra Costa County, within the jurisdiction of the San Francisco Bay Area Conservancy Program.
5. **Need:** As discussed above, the DWR Fish Passage Improvement Program has intended to complete this work until it was forced to withdraw due to budget cuts. At this time, Conservancy funds are needed as a non-federal match to the NOAA/American Fisheries grant. The Conservancy is one of a few grant programs that provide funding for planning projects; without the planning funds, local jurisdictions do not have the resources to complete these projects.
6. **Greater-than-local interest:** The recovery of California's salmon populations is of regional significance. Moreover, sport and commercial fishing provides an important economic benefit to California.

**Additional Criteria**

7. **Urgency:** The project participants expect to receive grant funds from the American Rivers/NOAA grant program. However, this program requires non-federal matching funds. Because DWR is no longer able to work on this program, Conservancy funds are needed to complete the project and provide the nonfederal match.
9. **Leverage:** See the “Project Financing” section above.
12. **Readiness:** The project is ready to be implemented as soon as funding is approved. All of the project participants have agreed to the conceptual passage design.
13. **Realization of prior Conservancy goals:** See the “Project History” section above.
14. **Return to Conservancy:** See the “Project Financing” section above.
15. **Cooperation:** The conceptual plan was developed with significant input from many organizations, including the City of Brentwood, the County Flood Control and Water Conservation District, the County Resource Conservation District, the Delta Science Center, American Rivers, the Department of Water Resources, and the Natural Heritage Institute.

**CONSISTENCY WITH LOCAL PLANS:**

The proposed project is consistent with the City of Brentwood’s General Plan. Goal 7 of Chapter IV is to “Protect the Brentwood Planning Area Natural Resources.” Policies 7.2, 7.3, and 8.1 state that the City will maintain and improve wildlife values along waterways and within flood control facilities. The City’s Parks and Recreation Master Plan identified removal of this barrier as a specific objective. The Contra Costa County Resource Conservation District’s 2003 *Marsh Creek Watershed Issues Catalog* also recommended supporting fish passage improvement in the lower watershed.

**COMPLIANCE WITH CEQA:**

Developing engineering drawings, preparing environmental documentation, and obtaining permits involve data gathering, planning, and analyses of possible future actions. Such work is statutorily exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to 14 Cal. Code of Regulations Section 15262. Upon approval, staff will file a Notice of Exemption.