

COASTAL CONSERVANCY

Staff Recommendation
September 15, 2004

Hamilton Wetland Restoration Project

File No 94-003
Project Manager: Tom Gandesbery

RECOMMENDED ACTION:

Authorization to disburse up to \$400,000 to the Novato Sanitary District (NSD) for design of relocated de-chlorination facilities and to disburse up to one million one hundred thousand dollars (\$1,100,000) for engineering, technical studies, planning and other work associated with implementation of the Hamilton / Bel Marin Keys Wetland Restoration Project.

LOCATION:

Hamilton site is in southeast Novato, along the western margin of the San Pablo Bay, Marin County (Exhibit 1)

PROGRAM CATEGORY: San Francisco Bay Area Conservancy

EXHIBITS

Exhibit 1: Project Location and Site Map

Exhibit 2: Staff Recommendation July 25, 2001

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:

1. The disbursement of up to four hundred thousand dollars (\$400,000) from funds encumbered under the Hamilton Wetland Restoration Project Cooperation Agreement (“PCA”), in accordance with the PCA, to the Novato Sanitary District for the design of replacement dechlorination facilities at two existing District sewage treatment plants; and
2. The disbursement of up to one million one hundred thousand dollars (\$1,100,000) for engineering services, technical studies, planning, and other work associated with design and implementation of the Hamilton and Bel Marin Keys Wetland Restoration project.

The Conservancy further authorizes the Executive Officer to approve minor modifications or amendments to the PCA, if deemed necessary by the Corps of Engineers, in order to provide credit to the Conservancy for any advance payment of its share of project costs or to otherwise carry out these authorizations.”

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 and will help carry out the Hamilton Wetlands Restoration Plan / Feasibility Report and its Environmental Impact Report/Environmental Impact Study adopted and certified by the Conservancy on April 22, 1999, pursuant to Chapter 6 of Division 21 of the Public Resources Code, concerning the enhancement of coastal resources, and with the Project Cooperation Agreement; and with the final SEIR/EIS for the Bel Marin Keys Unit V Expansion of the Hamilton Wetland Restoration Project;
2. The proposed authorization is consistent with Chapter 4.5 of Division 21 of the Public Resources Code, establishing the San Francisco Bay Area Conservancy Program; and
3. The proposed authorization is consistent with the Project Selection Criteria and Guidelines adopted by the Conservancy on January 24, 2001.”

PROJECT SUMMARY:

The Hamilton Wetland Restoration Project is a nationally significant multiple-objective restoration project. When implemented, it will create over 1,000 acres of high functioning

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wetlands, provide habitat for endangered species and bridge a gap in the North Bay's planned "ring of wetlands" running between Marin County shoreline eastward to Mare Island. The Hamilton project will be a key step in implementation of a regional solution to the dredge disposal problem. Rather than being disposed of in the Bay, clean sediments will be used beneficially to construct the wetlands, thereby benefiting both the environment and the maritime and trade economy. The Hamilton project was established to make use of sediments from various bay area dredging projects including the minus 50-foot navigation channel deepening at the Port of Oakland, also a project of the Corps of Engineers. As the non-federal sponsor of the wetland project, the Conservancy entered into a Project Cooperation Agreement (PCA) with the US Army Corps of Engineers (Corps) spelling out cost sharing requirements for project implementation. The recommended action would provide for payment of a portion of the Conservancy's share of project costs.

The Hamilton Wetland Restoration Project, as authorized by Congress in 1999, includes the 633 acre Hamilton Army Airfield, the 12.5 acre former Navy Ball Field site, and the 344-acre North Antenna Field site. The adjacent 1,600 acre Bel Marin Keys Unit V property is now under consideration by Congress for addition to the federally authorized Hamilton Wetland Restoration Project. With the addition of the Bel Marin Keys parcel, the project will total 2,500 acres in size.

These properties were historically part of a large expanse of tidal salt marsh bordered by extensive mudflats along the western edge of San Pablo Bay in Marin County. The salt marsh habitat was drained when farmers constructed levees to permit agricultural use of the land. The airfield site was developed with runways, support structures, and a perimeter drainage collection ditch.

All three parcels are under state ownership; the Conservancy acquired the airfield in October 2003 and the Bel Marin Keys V in 2001. The design, feasibility and environmental compliance documents for the addition of the Bel Marin parcel to the project have been completed and approved by the Army Corps and are awaiting Congressional approval. When authorized by Congress, the combined project will result in creation of 2,500 acres of tidal and non-tidal wetlands, and will provide a beneficial reuse of up to 24,000,000 cubic yards of dredge material.

A number of project delays have combined to threaten the readiness of the Hamilton site for receipt of the Port of Oakland dredged sediment, requiring the Conservancy and Corps to rethink how the project is to be carried out. The cause of past delays included delays in property transfer and other issues related to the base environmental cleanup. However delays have also resulted from inefficiencies in federal contracting, and delays in federal funding. The Corps and Conservancy have concluded that more flexibility in project management is needed to meet critical milestones, including receipt of material from the Oakland dredging project.

Staff recommends the Conservancy authorize a grant in the amount of up to \$400,000 to the Novato Sanitary District (NSD) to prepare detailed designs and construction drawings for the relocation of its dechlorination plant to serve two existing sewage treatment facilities owned and operated by the NSD. As part of a large-scale infrastructure planning effort, the NSD concluded that it is more cost effective to replace the one dechlorination facility currently located at Hamilton, with one at each treatment plant. Relocation of the dechlorination plant is a feature of the authorized Hamilton Wetland Restoration Project; pursuant to federal law and Corps policy,

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relocations such as this are the sole responsibility of the nonfederal sponsor, although the PCA allows the Corps to conduct the work using Conservancy funds. The proposed authorization would authorize the NSD to draw from funds provided under the PCA to carry out the planning, design and permitting necessary for this work. Staff anticipates recommending a future grant of funds to the NSD to carryout construction of new dechlorination facilities once the design is environmental documentation is complete.

Staff further recommends the Executive Officer be authorized to disburse up to \$1.1 million of Conservancy funds for engineering services, technical studies, planning and other work associated with design and implementation of the Hamilton Wetland Restoration and proposed combined Bel Marin Keys project. Specifically, the funds would be used for the wetland site design; hydrologic and hydraulic studies and assessment; various tasks related to the biological and toxicological impacts, sanitary engineering and outreach. By contracting directly for these technical services, the Conservancy can avoid some of the delay inherent in the federal funding and contracting processes, and help to get the project back on schedule.

The Conservancy anticipates it will be credited for this work as part of the required nonfederal cost share. Both the House and Senate versions of the 2004 Water Resources Development Act provide for crediting nonfederal sponsors for planning, design and construction expenditures for federally authorized projects. If WRDA is not approved in 2004, staff will seek other means to provide for crediting of these expenditures toward the total required nonfederal cost share.

The Corps has indicated that minor modifications or amendments to the Project Cooperation Agreement may be required to allow the Conservancy to directly fund technical studies and/or the NSD to remove and replace the existing dechlorination plant, located on the project site but owned and operated by NSD. Amendments to the PCA may be needed to provide credit to the Conservancy for any funds paid directly or in advance of the federal share of costs in the overall project cost accounting. This authorization would allow the Executive Officer to approve such modifications, if necessary.

Site Description:

See Previous Staff Recommendation for a description of the wetlands site (Exhibit 2).

The approved Hamilton Wetland Restoration Plan calls for the removal of structures, the construction of perimeter levees around the landward boundary of the site, protection and/or relocation of the Novato Sanitary District's wastewater pipeline and dechlorination facility, importing clean dredge material to raise site elevations, constructing interior berms and peninsulas and finally, excavating a breach in the bayfront levee to restore tidal action to the site.

The dechlorination plant, owned and operated by the Novato Sanitary District, is located within the perimeter levee and is operated by the District. Pursuant to an NPDES permit, NSD pumps treated waste water from two treatment plants to the dechlorination facility before discharging it into the bay. The proposed relocation of the dechlorination facilities to the treatment plants is a necessary relocation to allow wetland restoration construction to proceed. Once the equipment has been relocated, the current facility will be decommissioned and the small concrete building demolished as part of the project.

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Project History and Update:

Also See Previous Staff Recommendation (Exhibit 2).

The Hamilton Airfield ceased operations in 1976, and the Army operated the runway until 1984. The base officially was officially closed in 1994. The Department of Defense and General Services Administration, with input from the City of Novato, published a Reuse Plan, dated October 1995 which outlined how the majority would be redeveloped for residential housing, commercial offices and open space. Most of the base has been remediated and transferred to the City of Novato for these purposes. In the last decade, about 2000 single-family residences have been built and aircraft hangers have been rehabilitated for commercial use. The cleanup plan for the airfield, called a Remedial Action Plan (RAP) and Record of Decision to remediate and transfer the airfield property for open space wildlife conservation purposes was the last major federal property transfer action at Hamilton.

In 1996, the Conservancy assumed the lead and has worked closely with staff from the San Francisco Bay Conservation Development Commission and the US Army Corps of Engineers in developing a wetland restoration plan for the former Hamilton Army Airfield and adjacent properties. Key actions that followed include:

In 2001, the Conservancy entered into a Project Cooperation Agreement (PCA) with the Corps for implementation of the wetland restoration project. Under the PCA, the Army will construct the wetland restoration project using suitable dredge material pursuant to federal law and practice. The Conservancy will take title to the lands, easements and rights of way necessary to construct the project, and pays 25% of project costs. The Army is responsible under provisions of the Comprehensive Response, Compensation and Liability Act (CERCLA) for remediation of the property for the protection of human health and the environment. (see June 25, 2001 Staff Recommendation, attached as Exhibit 2)

The Army undertook remedial actions and investigations to meet its obligations under CERCLA prior to transfer of title. Contaminants found include petroleum and its combustion products, heavy metals, PCBs and pesticides. In addition to these pollutant “releases”, the Army also identified the presence of low levels of DDT pesticide across the entire site. The plan to remediate the remaining sites of contamination is contained in the RAP. Cleanup is being undertaken and funded by the BRAC program at no cost to the wetland project. The wetland project is being designed to provide cover for residual low levels of DDT pesticide. In early 2003, the Corps demolished all unnecessary structures on the airfield.

In September 2003, the Conservancy accepted title to the Airfield Parcel pursuant to the 1999 MOA, and as an early transfer under the provisions of the CERCLA subject to all of the necessary actions: approval of the RAP; issuance of site cleanup requirements by the San Francisco Bay Regional Water Board; execution of an Implementation MOA; and a determination by the Governor that the property was suitable for early transfer.

Current and upcoming activities include:

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- The Corps is currently designing perimeter levees that will provide flood protection for adjacent properties.
- In late summer and fall the Corps will excavate several feet of top soil from a one-hundred acre portion of the property for eventual placement under clean dredged sediment.
- In fall 2004, the final plans and specifications for the airfield wetland restoration will be completed. Permits will be obtained by spring 2005.
- Providing Congress approves a Water Resources Development Act in 2004, the Corps will incorporate the Bel Marin Keys property into the project plan and schedule.

PROJECT FINANCING:

Existing State Funding under the PCA for Hamilton Wetland Restoration Project:
(Previous Conservancy Authorization)

\$14,648,406

Anticipated PCA Expenditures this Year

Nonfederal Cost Share [to Corps] *	\$1,250,000
Design of Dechlorination Plants [to NSD]	\$400,000 (this authorization)
Relocation of Existing and Construction of New Dechlorination Plant [to NSD]	<u>\$1,300,000 (future authorization)</u>

Total **\$2,950,000**

(* Anticipated federal 2005 appropriation is \$5,000,000)

New Funding This Authorization

Technical, Environmental Services: \$1,100,000

The expected source of funding for these services is the \$40 million Proposition 50 grant to the Conservancy from the Wildlife Conservation Board for projects in the San Francisco Bay Area that are identified in the Baylands Ecosystem Habitat Goals Report. Both the Hamilton and the Bel Marin Keys projects are identified in this report.

CONSISTENCY WITH CONSERVANCY'S ENABLING LEGISLATION:

Implementation of the proposed project would advance the purposes of Division 21 of the Public Resources Code, by implementing a resource enhancement plan approved pursuant to Chapter 6,

and by protecting and enhancing natural habitats within the San Francisco Bay Area pursuant to Chapter 4.5.

In its action to adopt the Hamilton Wetland Restoration Plan on April 22, 1999, the Conservancy found the project to be consistent with Chapter 6 of Division 21, including specifically sections 31252, 31258.5, and 31263.5. The Conservancy also determined the Hamilton Wetland Restoration Project to be consistent with Chapter 4.5 of the Division 21, establishing the San Francisco Bay Area Conservancy Program to address resource and recreational goals of the San Francisco Bay Area, in its action of June 25, 2001, pursuant to which the Conservancy has entered into a Project Cooperation Agreement with the Army Corps of Engineers for implementation of the wetland restoration project. The project remains consistent with the authority, purposes and objectives of Chapter 4.5 and Chapter 6 of Division 21.

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

Consistent with **Goal 5 Objective A**, the project would preserve, restore and enhance coastal wetlands critical to the San Francisco Bay region, both by acquiring interests in land and by facilitating the resolution of conflicts that impede efforts to conserve resources.

Consistent with **Goal 10 Objectives A and B** of the Conservancy's Strategic Plan, the proposed project will protect, restore and enhance natural habitats and connecting corridors, watersheds, and other open space resources of regional importance

CONSISTENCY WITH CONSERVANCY'S PROJECT SELECTION CRITERIA & GUIDELINES:

In its June 25, 2001 authorization, the Conservancy found the Hamilton Wetland Restoration Project to be consistent with the Conservancy's Project Selection Criteria and Guidelines adopted January 24, 2001. The present recommendation is also consistent with those Criteria and Guidelines, in the following respects:

Required Criteria

Promotion of the Conservancy's statutory programs and purposes: See the "Consistency with Conservancy's Enabling Legislation" section above.

Consistency with purposes of the funding source: See the "Project Financing" section above.

Support of the public: The project enjoys broad support from environmental, labor and industry [see previous Staff Recommendation, Exhibit 2]

Need: Various Technical studies, design tasks and public outreach are required to complete the project. Delays in federal funding and budgetary process have resulted in a need for the Conservancy to undertake certain tasks in partnership with the Corps.

Additional Criteria

1. **Urgency:** The project must move ahead on key design and implementation tasks that will likely be delayed if the Corps must carry out all work. Delays in the federal budgetary process have caused significant delays to the project in the last two years.
9. **Leverage:** Under the PCA, the Conservancy is responsible for paying the cost of dechlorination facility relocations, which costs are credited to its 25% nonfederal share of total project costs. Conservancy staff is also working with the Corps to ensure that direct expenditures for technical services are also credited. The Army Corps of Engineers will pay 75% of total project costs.
11. **Innovation:** Close involvement by the nonfederal sponsor is becoming more accepted across the country as the Corps loses funding, staff resources and the agency recognizes that it is not able to react quickly to changed project conditions. Sponsors have found innovative ways to partner with the Corps on projects, working within the confines of the PCA and federal law and also moving projects forward on a faster schedule than otherwise would occur if the Corps carried out all the work. Pending federal legislation (WRDA04) will allow nonfederal sponsors, in this case the Conservancy, to receive credit toward the total project cost for all work, (i.e., will be viewed as "in-kind" services).
12. **Readiness:** In many cases, the Conservancy has the ability to move into environmental services type contracts much more rapidly than the Corps, which is hampered by internal process, competing needs and delays in federal budgetary process.
15. **Cooperation:** Corps staff fully supports the increased role of the Conservancy in implementing the Hamilton Project.

CONSISTENCY WITH SAN FRANCISCO BAY PLAN:

The project will assist in the implementation of BCDC's San Francisco Bay Plan which contains policies to protect and restore marshes and mudflats (pages 9 and 1012): "Marshes and mudflats should be maintained to the fullest possible extent to conserve fish and wildlife and to abate air and water pollution." And ". . . the quality of existing marshes should be improved by appropriate measures wherever possible." And Fish and Wildlife policy (Page 7, Policy 1) ". . . to the greatest extent possible, the remaining marshes and mudflats around the Bay . . . should be maintained." The project would also be consistent with the Bay Plan dredging policies (pages 21-22) that promote the use of dredged material as a resource and specifically policy 4 that states: "To ensure adequate capacity for necessary Bay dredging projects and to protect Bay natural resources, acceptable non-tidal disposal sites should be secured and designated. Further, disposal projects should maximize use of dredged material as a resource, such as creating, enhancing, or restoring tidal and managed wetlands. . . ."

COMPLIANCE WITH CEQA:

The recommended actions would be carried out as part of the Hamilton Wetland Restoration Project, which was analyzed in a Environmental Impact Statement and Report, published

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December of 1998 and certified by the Conservancy in April 1999.

A Subsequent Environmental Impact Report was prepared and certified by the Conservancy on August 14, 2003. The Subsequent EIR addressed cleanup activities by the Army BRAC program, as documented in the RAP/ROD.

Planning for the relocation and reconstruction of the NSD dechlorination facility is a statutorily exempt activity because it involves only planning and feasibility studies for possible future actions that have not yet been approved, adopted, or funded. The Novato Sanitary District will prepare any necessary environmental documents for the relocation as part of the present grant. The Sanitary District will be the lead agency under CEQA for the relocation project and expects to carry out the reconstruction upon compliance with CEQA and pursuant to a subsequent Conservancy authorization.