

COASTAL CONSERVANCY

Project Summary
January 27, 2005

**ORMOND BEACH MWD/CITY
PROPERTY ACQUISITION**

File No. 90-048
Project Manager: Peter S. Brand

RECOMMENDED ACTION: Authorization to disburse up to \$12,972,000 to the Nature Conservancy for the acquisition of approximately 276 acres at Ormond Beach for open space, habitat preservation and wetland restoration and up to \$30,000 for closing and escrow costs.

LOCATION: City of Oxnard, Ventura County (Exhibit 1)

PROGRAM CATEGORY: Resource Enhancement

EXHIBITS

- Exhibit 1: Regional Map
 - Exhibit 2: Acquisition Area
 - Exhibit 3: WCB Letter
 - Exhibit 4: Restoration Plan Area Map
 - Exhibit 5: Support Letters
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RESOLUTION AND FINDINGS:

Staff recommends that the State Coastal Conservancy adopt the following Resolution pursuant to Sections 31251-31270 of the Public Resources Code:

“The State Coastal Conservancy authorizes disbursement of an amount not to exceed thirteen million two thousand dollars (\$13,002,000) to the Nature Conservancy for acquisition of 276 acres of property at Ormond Beach, as described in the accompanying staff recommendation, which is currently owned by the Metropolitan Water District of Southern California (“MWD”) and the City of Oxnard (“City”) as tenants-in-common. The grant is subject to the following conditions:

1. Prior to the disbursement of funds for the acquisition, the Executive Officer shall review and approve all title and acquisition documents including but not limited to the ap-

praisal, agreement of purchase and sale, environmental assessments, escrow instructions and documents of title pertaining to the acquisition.

2. The Nature Conservancy shall pay no more than fair market value for the property acquired pursuant to this authorization, as established by an appraisal approved by the Executive Officer.

3. All property interests acquired with these funds shall be permanently protected for open space and habitat preservation, wetland restoration and appropriate public access, in a manner acceptable to the Executive Officer and consistent with Public Resources Code Section 31116(b).

4. No Conservancy funds shall be disbursed unless and until the Executive Officer concurs with a determination by the Nature Conservancy that adequate measures have been taken to reasonably protect the Nature Conservancy and the Coastal Conservancy from liability for preexisting contamination on the MWD/City property.

5. The Nature Conservancy may continue to lease portions of the property for agricultural use pending completion and implementation of a wetland restoration plan, provided that all lease revenues are maintained in a segregated account dedicated to paying the costs of managing, preserving and restoring the property and subject to the approval of the Executive Officer.

The Conservancy further authorizes the Executive Officer to enter into agreements necessary to carry out the project as described in the accompanying staff recommendation, including but not limited to agreements with The Nature Conservancy and the Sellers to carry out the purchase and sale, and with the Wildlife Conservation Board to accept funds to defray or reimburse the Conservancy's costs of acquisition."

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 acquisition of additional properties at Ormond Beach for wetland and related habitat restoration remains consistent with the purposes and criteria of Chapter 6 of the Division 21 of the Public Resources Code (Sections 31251-31270) regarding enhancement of coastal resources, as determined by the Conservancy in its action authorizing reservation of funds for this acquisition on October 23, 2003.
2. The proposed project is consistent with the Conservancy's Project Selection Criteria and Guidelines.
3. The Nature Conservancy is a private, nonprofit organization existing under the provisions of Section 501(c)(3) of the United States Internal Revenue Code, whose purposes are consistent with Division 21 et sec of the Public Resources Code.
4. Acceptance of funds from the Wildlife Conservation Board or other sources is consistent with the authority of the Conservancy under Section 31104 of the Public Resources Code."

PROJECT SUMMARY:

Staff recommends that the Conservancy authorize disbursement of \$12,972,000 to the Nature Conservancy for the acquisition of approximately 276 acres at Ormond Beach for restoration of wetlands and related habitat (Exhibit 2). These lands are currently owned by the Metropolitan Water District of Southern California and the City of Oxnard as tenants-in-common. Staff of the Coastal Conservancy and the Nature Conservancy have worked closely in collaboration with the Sellers, MWD and City of Oxnard, to respond to the sale of this property as surplus lands, and to develop a purchase agreement meeting all of the entities' needs. The MWD Board has authorized sale of the property to the Nature Conservancy, acting in cooperation with the Coastal Conservancy, in accordance with the key terms and principles of the proposed transaction reflected in a draft purchase and sale agreement and summarized below. City of Oxnard staff has presented a recommendation to their City Council, which will be heard on January 25, to authorize sale in accordance with the draft purchase and sale agreement.

On October 23, 2003, the Conservancy authorized reservation of \$23,000,000 of Conservancy funds for the acquisition of 500 acres of the City of Oxnard/Metropolitan Water District (MWD) property and the Southland Sod property for the potential restoration of coastal wetlands, dunes, and associated uplands at Ormond Beach. Negotiations are underway with Southland Sod. The Wildlife Conservation Board will consider an allocation of \$6.5 million at its February 24, 2005 meeting to defray or reimburse the Conservancy's costs for the MWD/City of Oxnard property (Exhibit 3). This would reduce the cost of the project to the Conservancy by that amount.

The proposed acquisition of 276 acres represents most of the 309 acres that was purchased by MWD and the City in 1998. MWD's intent in buying the property was to reserve the property for possible use in the future for a desalination plant. While a desalination plant at this location is unlikely, MWD wants to retain for this eventuality a 20-acre portion of their ownership at the southeast corner adjacent to the Reliant electrical generating plant. As part of the purchase and sale agreement, MWD has asked for the right to mitigate adverse environmental impacts of the plant, should it ever be constructed, by contributing to the cost of restoration of the surrounding wetlands. If the regulatory authorities that give a permit for the plant agree to off-site mitigation credit, MWD would be able to pay or reimburse the Conservancy's cost of wetland restoration (acquisition, planning, permitting, construction, maintenance and monitoring) on the adjoining property. Also, MWD and the Conservancy will cooperate in the future on the possible relocation of the plant site from the retained site at the end of Edison Drive to another location on land owned by the Conservancy at Ormond Beach if it is mutually desirable. Finally, if MWD decides to sell the twenty-acre site because they no longer want it for a desalination plant, the Conservancy has a first right of refusal to give it the opportunity to purchase it for its wetlands

project. The City of Oxnard's Community Development Commission (CDC) is also retaining a portion of the 310-acre ownership. They have excluded from the sale a 13-acre parcel on the northwest corner of the property, which adjoins a paper recycling plant owned by Weyerhaeuser Corporation. This property would be reserved for development of a tertiary water treatment facility, or other municipal uses, and CDC would have similar rights to contribute to the wetland project as mitigation for the impacts of such municipal use as are described above with respect to the Metropolitan desalination plant. Alternatively, the City may sell this parcel to Weyerhaeuser, which

hopes to use a small portion of the parcel for a storage site, and convey any sensitive habitat or wetland buffers to the Conservancy. Neither Weyerhaeuser nor any other private purchaser of the 13-acre parcel would obtain mitigation rights.

Under the draft agreement for purchase and sale of the remaining 276 acres, the Coastal Conservancy and The Nature Conservancy would acknowledge the intentions of MWD and CDC to use these retained parcels for a desalination plant and tertiary water treatment facility, respectively, and MWD and the CDC would acknowledge the intention of the Coastal Conservancy and The Nature Conservancy to restore all or a portion of the purchased acres to wetlands and associated wildlife habitat, with provision for appropriate public access. All four parties would agree that the uses are not necessarily mutually inconsistent or incompatible, and agree to work together in the development of their respective project planning to avoid conflicts.

MWD and CDC are only willing to sell the property “as is”, without warranty or indemnification as a result of any hazardous substances or other conditions on the property. A Phase II environmental assessment prepared by consultants for the Conservancy has detected elevated concentrations of some contaminants in certain areas and at certain depths in the site. The concentrations are consistent with those identified in past studies (prior to the MWD/City purchase) familiar to regulatory agencies. While some areas may be dealt with by creative grading and capping techniques as part of wetland restoration, others may require excavation and recycling or disposal offsite. The worst contamination appears to be derived from an adjacent property. Elevated metals concentrations were detected in soil and water samples collected adjacent and to the east of the Halaco slag pile.

Halaco is a smelter and recycler of non-ferrous metals that has created a 26-acre waste pile and slurry pond adjacent to the MWD/City property. Halaco has ceased operations and is currently under a cleanup and abatement order from the Los Angeles Regional Water Quality Control Board. Actions required of Halaco include capping and closure or removal of the 26-acre disposal unit and testing to confirm any contamination they may have caused on adjoining property. Staff is therefore investigating various mechanisms for protecting The Nature Conservancy and the Coastal Conservancy from liability attributable to these causes. Staff is pursuing two forms of assistance from the Los Angeles Regional Water Quality Control Board (LARWQCB): a covenant-not-to-sue which protects the Nature Conservancy and the Coastal Conservancy from being named as dischargers or responsible parties for known contamination of the property; and an offer by LARWQCB staff to provide cleanup funds from funding sources devoted to that purpose. These protections will be further explored during the contingency period provided for in the purchase and sale agreement. In addition, staff will investigate other measures to cover remaining areas of potential liability, including the possible purchase of pollution legal liability insurance as was used at the Edison property at Ormond Beach and Hamilton Airfields in Marin. Such insurance could be structured in various ways to cover unknown contaminants and/or costs beyond the normal contingency costs in restoring the wetland such as disposal of the worst soils offsite. The cost of such insurance could be shared by the Conservancy, the Nature Conservancy, the City of Oxnard, and the Metropolitan Water District.

The site is divided between areas of mostly degraded salt and freshwater marsh and an area of former wetlands and associated habitat that is in agriculture. Despite the degradation numerous listed and special status wildlife and plant species occur onsite. Ocean View Produce Company has an agricultural ground lease on approximately 95 acres (broccoli and celery) that will con-

tinue upon sale and be renewable at will on a quarterly basis. Revenues from the lease will accrue in a special account at the Nature Conservancy to be reserved for property management and related other costs to be approved by the Conservancy.

The biological significance of this area has been recognized and its restoration potential endorsed by all of the federal and state resource agencies that participate in the Southern California Wetlands Recovery Project. With their support and the unanimous support of the Ventura County Board of Supervisors and the Oxnard City Council, the Conservancy has begun acquisition at Ormond Beach with a goal of acquiring at least 750 acres to accommodate wetland and other habitat needs and at the same time complement the City's goal to complete development of the south Oxnard community. Acquisition and restoration of these properties could at least triple the extent of habitat at Ormond Beach. In June 2002, the Conservancy acquired the first property, 265 acres including a former tank farm site, from Southern California Edison (Exhibit 2).

A critical mass of 750 acres of restored wetlands and associated habitat at Ormond Beach is expected to create a self-sustaining biological system and enough tidal prism and flushing action to maintain health and hydrologic function. Anticipated restoration at Ormond Beach would include modifications of the site hydrology to restore tidal action and bring back freshwater flows that had formerly drained across the Oxnard Plain to the coastal wetlands. When integrated with the adjoining 900 acres of freshwater wetlands and the 1,500 acres at Mugu Lagoon, this could be the largest coastal wetland in southern California, spanning nine miles of the coast from Point Hueneme to Point Mugu.

The Conservancy has begun a restoration feasibility study for Ormond Beach and adjoining wetlands which will develop recommendations that address habitat needs of the coastal landscape ecosystem, habitat needs of special status species, water supply and quality issues, mitigation of contaminants, wetland restoration alternatives, priority and timing of restoration activities, public access and interpretive center opportunities, and costs for restoration and management (Exhibit 4).

Site Description: The MWD/City property proposed for acquisition is currently divided approximately in half between degraded wetlands and farmed land.

Prior to development, the coast of Ventura was a vast complex of dunes, lakes, lagoons, and salt and freshwater marshes. From the Santa Clara River estuary to the beginning of Mugu Lagoon, it appears from historic maps that there were seven lagoons. Most have either disappeared, been severely degraded, or been converted to marinas or ports. Nevertheless, this is one of the few areas in southern California with an intact dune-transition zone-marsh system.

Ormond Beach is a 1,500-acre area composed of agriculture, industry, and wetlands. A two-mile-long beach extends from Port Hueneme to the northwestern boundary of Point Mugu Naval Air Station, which encompasses Mugu Lagoon.

The Ormond Beach wetlands historically were part of a salt marsh and brackish water lagoon and dune system. These lagoons were located behind a narrow sandy barrier beach of low dunes and fed by water from creeks and surface flow over the plain, and inundated by salt water during high tides or storms. Periodically, the barrier beach was breached by floodwaters and the action of winter storm waves. Some of the lagoons likely remained open to the ocean for a period after the breaching event. Tidal connections have likely always been muted. The site probably received most of its water as runoff from inland sources and from the site's high water table.

The wetlands at Ormond Beach once covered approximately 1,000 acres; approximately 250 acres remain. All of the remaining wetlands are within the city's incorporated boundary. Approximately half of the remnant wetlands are on the Conservancy property (former Edison site) and half on the adjoining 309-acre property owned by the City of Oxnard and the Metropolitan Water District.

The lagoons of Ormond Beach have been used as a city dump, developed with a magnesium smelting plant and with the electrical generating plant, and drained for agriculture. Drainage and developments, including the naval air station, have left the Ormond Beach wetlands hydrologically isolated and significantly reduced in size. The remaining wetlands on site are degraded from compaction due to human use and dumping, contaminated from runoff, and suffering from hypersalinity due to lack of flushing.

Approximately 95 acres of the MWD/City site is currently cultivated as row crops. Wetland types at the MWD/CDC site include seasonally inundated brackish and freshwater marshes, and isolated (formerly tidal) salt marshes. Open beach and coastal dune ecosystems also are present. Endangered and threatened species at the site include western snowy plover, California least tern, brown pelican, Belding's savannah sparrow, tidewater goby, and salt marsh bird's-beak (an annual plant). Light-footed clapper rail also occurs in nearby salt marsh habitat of Mugu Lagoon. Many other sensitive species also are present, such as globose dune beetle, spiny rush, and red sand verbena. More than 200 migratory bird species are reported for the Ormond Beach and Mugu Lagoon wetland complex, and more shorebird species are known there than any other site in Ventura County.

Ormond Beach is considered by wetland experts to be the most important wetland restoration opportunity in southern California. Over 200 migratory bird species are reported for the Ormond Beach area, and more shorebird species are known to use Ormond Beach than any other site in Ventura County. Six threatened and endangered species and six species of concern have been identified on the MWD/CDC site.

The Ormond Beach wetlands offer a unique opportunity in the highly developed landscape of southern California to not just enhance but also greatly increase coastal wetlands. In addition, the biological vitality and diversity of the wetlands can be enhanced at Ormond Beach by the restoration of associated habitat such as dunes and surrounding grasslands, which will re-establish wetland-upland ecological connections, fostering edge-dependent species and predator-prey relationships and thereby create a self sustaining system. Because of conversion to urban uses, no other coastal wetland in southern California offers the opportunity that exists here to restore the wetland to most of its historic extent or surround it with its full complementary habitat.

Project History: The Ormond Beach wetlands have been drained, filled, and degraded over the past century to accommodate agriculture and industrial uses. For the last three decades, there have been numerous proposals for marinas, resorts, and residences in and adjoining the remnant wetlands. During the 1990s, the Conservancy worked with the City, the community, and the landowners of Ormond Beach to extinguish lots on the beach, prepare a plan for restoration of the remnant wetlands on the Edison property, and develop a consensus plan for development and wetland restoration on the private lands there. Each of the development proposals for Ormond Beach failed.

In October 1999, the Conservancy proposed to Southern California Edison that it acquire their surplus lands remaining after sale of their Ormond Beach generating plant to Reliant Energy. Edison entered into and terminated negotiations with the Conservancy twice during this period. The Conservancy finally acquired the 265-acre property in June of 2002.

In February 2000 when the Conservancy initially approved the acquisition of Edison properties, it also approved the Wetland Resources Enhancement Plan for Southern California Edison Coastal Properties, including Ormond Beach, which identifies the opportunities for preservation and restoration of these coastal resources. The Enhancement Plan indicates the presence of important resource preservation and restoration opportunities on the Edison property and the surrounding area, recommends acquisition of the Edison property and detailed planning for wetland restoration, and proposes appropriate long-term management scenarios to follow actual restoration.

At its August 2003 meeting, the Conservancy approved funding for a wetland restoration study that would show how the greater Ormond Beach wetlands area could be restored and linked hydrologically and as an ecosystem. Given the complexities of wetland restoration planning for this and adjoining sites, the Conservancy will require some time to complete all of the planning, environmental analysis, and other requirements that are needed to construct the wetlands.

On October 23, 2003, the Conservancy authorized reservation of \$23,000,000 of Conservancy funds for the acquisition of up to 500 acres at Ormond Beach, including the City of Oxnard/Metropolitan Water District (MWD) property and the Southland Sod property, the adjoining 220 acres of former wetlands that are currently owned and farmed by Southland Sod. The Conservancy originally authorized acquisition of all of these farmlands from Edison in a complex transaction that would have resulted in the sod farm retaining that portion not needed for wetland restoration. Edison decided to sell all of the farmland to its lessee, Southland Sod. The owner has since offered to sell all of the 340-acre former Edison property to the Conservancy conditioned upon his purchase of other suitable agricultural land where he can transfer his operations. One option at this time is to acquire 220 acres and an agricultural conservation easement over the balance of the property.

In August 2004, the Board of Directors of the Metropolitan Water District determined that all of the property, except for the twenty acres being retained, is surplus to the District's needs and authorized its sale at the price and on the terms described above. Because the sale was made pursuant to the State Surplus Lands Act, the Coastal Conservancy, acting as a state agency on behalf of The Nature Conservancy, was able to express its interest in the property and enter directly into negotiations with MWD and the City of Oxnard, preempting a sale on the open market. The City also entered into negotiations for the sale of its fifty percent interest in the property, provided that it was able to purchase and retain full title to the thirteen-acre parcel. The property lies within the Oxnard Community Development Commission's Ormond Beach Project Area. The redevelopment implementation plan adopted by the Community Development Commission in December 2004 identifies the sale of this property for wetland restoration purposes as a redevelopment priority for the next five years. The City Council expects to authorize the sale at its meeting on January 25, 2005.

PROJECT FINANCING:

Coastal Conservancy	\$13,002,000
Wildlife Conservation Board (pending)	\$6,486,000
Net Conservancy funds with WCB cost share	\$6,516,000

The anticipated source of Conservancy funds is the California Clean Water, Clean Air, Neighborhood Parks and Coastal Protection Act, Proposition 40. The project will help implement the purposes of the act including the acquisition of land and water resources in accordance with Division 21. Projects also must give priority to projects that include a commitment for a matching contribution.

To the extent that grant funds are committed to the project by the Wildlife Conservation Board or other agencies, the Conservancy's cost would be reduced accordingly. Wildlife Conservation Board funds are anticipated from their Proposition 50 allocation which gives priority to coastal wetlands in southern California. The Ormond Beach wetlands are a high priority for the Southern California Wetlands Recovery Project.

CONSISTENCY WITH CONSERVANCY'S ENABLING LEGISLATION:

This project would be undertaken pursuant to the Conservancy's enabling legislation, Division 21 of the Public Resources Code; in particular Chapter 6 (Public Resources Code Sections 31251-31270). In approving the Wetland Resources Enhancement Plan for Southern California Edison Properties, which calls for further detailed restoration planning for the Ormond Beach area, the Conservancy determined on February 24, 2000 that the project was consistent with the purposes and criteria set forth in Chapter 6, and with the Conservancy's interim Program Guidelines, adopted May 27, 1999. In reserving funds for Ormond Beach acquisitions in its action of October 23, 2003, the Conservancy found that acquisition of additional properties at Ormond Beach, including the MWD/CDC property, would be consistent with the purposes and criteria of Chapter 6 of Division 21. The project as now recommended remains consistent with these findings. Specifically, Section 31251 authorizes the Conservancy to award grants for the assembly of parcels of land within coastal resource enhancement areas to improve resource management and for other corrective measures that will enhance the natural and scenic character of the areas. Consistent with section 31252, the project area has been identified in the certified local coastal program as requiring public action to resolve existing or potential resource protection problems, as more fully explained below. Consistent with Section 31253, the level of Conservancy funding for this project has been determined through consideration of the total amount of funding available for coastal resource projects, the relative urgency of the project, and other factors including in particular the availability of state funding from the Wildlife Conservation Board for this acquisition effort. Pursuant to sections 31251, 31253 and 31260, the Conservancy may fund the costs of land acquisition as part of an approved coastal resource enhancement project.

**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 is supported by State Senator Sheila Kuehl, Assembly-member Fran Pavley, the Southern California Wetland Recovery Project, the Ventura County Board of Supervisors, and the Oxnard City Council, as well as numerous environmental groups.
4. **Location:** The project is almost entirely within the coastal zone of the City of Oxnard.
5. **Need:** Conservancy assistance is necessary to implement the project.
6. **Greater-than-local interest:** The destruction of coastal wetlands in southern California and the subsequent loss of species is an issue of statewide importance. The proposed project would restore one of the largest wetlands in southern California and adjoining grasslands.

Additional Criteria

7. **Urgency:** The owners are currently willing sellers. Land values are rising in the area. A Specific Area Development is being prepared for the adjoining area.
8. **Resolution of more than one issue:** The project helps resolve several issues such as species degradation, wetland loss, grassland loss, fisheries decline, and pollution of coastal waters.
10. **Conflict resolution:** The acquisition of this and adjoining lands by the Coastal Conservancy has resolved, for most residents of the area, decades of controversy over land use in the area.
12. **Readiness:** The Nature Conservancy is prepared to acquire the property.
13. **Realization of prior Conservancy goals:** See “Project History” above.
15. **Cooperation:** The project could not be accomplished as quickly or as efficiently without the partnership between the Nature Conservancy and the Coastal Conservancy.

CONSISTENCY WITH CONSERVANCY'S STRATEGIC PLAN GOALS & OBJECTIVES:

Consistent with **Goal 4, Objective A**, the project will acquire significant coastal resource properties.

Consistent with **Goal 5, Objective A**, the project will preserve and restore coastal wetlands and dunes.

Consistent with **Goal 1, Objective D**, the project would acquire new right-of-way bridging gaps in the Coastal Trail.

COMPLIANCE WITH CEQA:

The project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) because it involves the acquisition of land for wildlife conservation purposes (14 Ca. Code of Regulations Section 15313) and to preserve existing natural conditions as well as to allow restoration of natural conditions of land for wildlife

conservation purposes (14 Ca. Code of Regulations Section 15325). Staff will file a Notice of Exemption upon approval of the project.