

COASTAL CONSERVANCY

Staff Recommendation
October 27, 2005

INDIAN ISLAND - TULUWAT SITE HABITAT ENHANCEMENT PROJECT

File No. 00-087-02
Project Manager: Jim King

RECOMMENDED ACTION: Authorization to disburse up to \$61,000 to the Table Bluff Reservation – Wiyot Tribe to establish native saltmarsh and upland vegetation at the Tuluwat village site on Indian Island in Humboldt Bay for the purposes of creating habitat and enhancing scenic values.

LOCATION: Indian Island, located in northern Humboldt Bay, Humboldt County.

PROGRAM CATEGORY: Resource Enhancement

EXHIBITS

Exhibit 1: Project Location and Site Maps

Exhibit 2: Illustrative Cross Section of Project Features

Exhibit 3: Letters of Support

RESOLUTION AND FINDINGS:

Staff recommends that the State Coastal Conservancy adopt the following resolution pursuant to Sections 31251-270 of the Public Resources Code:

“The State Coastal Conservancy hereby authorizes the disbursement of an amount not to exceed sixty one thousand dollars (\$61,000) to the Table Bluff Reservation – Wiyot Tribe (“Tribe”) to establish native saltmarsh and upland vegetation at the Tuluwat village site on Indian Island in Humboldt Bay for the purposes of creating habitat and enhancing scenic values, subject to the following conditions:

1. Prior to disbursement of funds, the Tribe shall submit for the written approval of the Conservancy’s Executive Officer a work program, budget, and the names of contractors that it intends to employ for the project.
2. The Tribe shall ensure that signs acknowledging Conservancy and Proposition 12 funding are installed at the project site in the manner approved by the Conservancy’s Executive Officer.

3. The Tribe shall ensure that all permits and approvals applicable to the project are obtained prior to construction, and that construction is conducted according to the permits.
4. The Tribe shall ensure that all materials and debris originating from the project shall be stored and/or contained in a manner to preclude damage to adjacent wetlands or waterways.”

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 the purposes and objectives of Chapter 6 of Division 21 of the Public Resources Code.
2. The proposed authorization is consistent with the Project Selection Criteria and Guidelines adopted by the Conservancy on January 24, 2001.”

PROJECT SUMMARY:

Staff recommends Conservancy authorization to disburse up to \$61,000 to the Table Bluff Reservation – Wiyot Tribe to establish native saltmarsh and upland vegetation at the Tuluwat village site on Indian Island in Humboldt Bay (Exhibit 1). The vegetation is intended to complement structural erosion control to be installed on a 400 linear-foot reach of the island’s eastern shoreline where human disturbance has been concentrated and erosion threatens an ancient Wiyot shell midden. The National Park Service has provided funds to the Tribe for the structural erosion control. The proposed authorization is consistent with the Conservancy-funded Indian Island Cultural and Environmental Restoration Project Feasibility Study (“the feasibility study”) completed in 2003. Erosion control and revegetation work has been reviewed and approved for installation by the Coastal Commission and the U.S. Army Corps of Engineers and the structural work is planned for installation this fall. The Conservancy’s assistance with establishing vegetation will complement the preceding work by developing diverse habitat at the site, including representative species found in similar circumstances around the margins of the bay, and will soften the appearance of the structural project, thereby enhancing scenic values of this prominent site.

Indian Island is largely submerged during the highest tides except for the Tuluwat village shell midden and a small adjacent upland. There is no road access to the worksite and all materials must be delivered by barge. To preserve the village site and shell midden, as part of the work funded by the National Park Service, composite sheet piling will be driven into the substrate to form a bulwark extending approximately 400 linear feet and backfilled with approximately 330 yards of material. The earth fill will be held in place with geotextile matting and topped with a soil medium suited for planted vegetation. Large cobble and woody debris will be placed on the bayside of the engineered 2:1 slope. The matting design will allow for planting pockets within the embankment. Intertidal species will be installed near the bayshore and upland and riparian species common to the bay margins will be planted at suitable elevations above the tideline. The vegetation funded by the Conservancy is expected to complement the structure, improve its

appearance and provide habitat, particularly for ground nesting birds, while at the same time providing refugia for numerous species during the highest flood tides (Exhibit 2, Project Features). Planting would occur upon completion of the structural erosion control elements this winter, with additional planting in the fall of 2006. The performance of the vegetation work would be monitored through the fall of 2009 with supplemental replanting undertaken as needed to assure plant survival and habitat establishment.

The feasibility study provided guidelines for more extensive enhancement and access improvements at Indian Island. The Tribe has developed a work program for achieving the study's objectives with the protection of the shell midden and village site being its first priority. While developing the erosion control and habitat enhancement activities, the Tribe has simultaneously developed a hazardous materials remediation plan with the U.S. Environmental Protection Agency for materials associated with a boatyard that once occupied the village site adjacent to the midden where the erosion control and enhancement activities will occur. The Tribe expects to address hazardous materials remediation at the adjacent Tuluwat site before undertaking the larger scale enhancement and access objectives identified in the feasibility study. The Tribe has proven to be persistent and capable in their efforts to restore this highly symbolic site and the Conservancy's support now, with respect to modest but important habitat gains, will also assist the Tribe in maintaining momentum and the cooperation needed to bringing additional elements of the Indian Island Restoration Project to fruition.

Site Description: Indian Island is the largest of three islands situated at the northern end of a narrow strait separating the northern and southern lobes of Humboldt Bay. It measures some 270 acres, with elevations ranging from 0 to 14' NGVD and lies within the City of Eureka, approximately one-half mile northwest of the downtown waterfront and westward of the other major islands, Woodley Island and Daby Island. The island is roughly one mile long and less than ½ mile wide. An elevated section of State Highway 255, often referred to as the Samoa Bridge, transects the island.

The proposed project is located on a 1.5-acre parcel owned by the Tribe (non-federal trust land fee simple title Tribal holding) that includes the ancient village site, Tuluwat, its shell midden and the site of a subsequent boatworks facility. The State retains a public trust interest in the entire property. The Tuluwat village site is listed in the National Register of Historic Places and as a threatened National Historic Landmark. The remainder of the island is predominately saltmarsh modified by dikes and field drains, with the exception of the Highway 255 embankment where a variety of native and exotic species exist and small upland areas south of the embankment, most notably including a Monterey Cypress grove that is site of a significant egret rookery. Aside from two small residential inholdings, also located on higher terrain on the south end of the island, the remainder of the island is owned by the City of Eureka.

Project History: In 2000 the Conservancy provided funds to the Northern California Indian Development Council, Inc., a nonprofit organization, to prepare a plan to assess opportunities for restoring salt marsh habitat, protecting sensitive archaeological resources and exploring interpretive and educational opportunities for the island. The assessment focused on the roughly 80-acre area north of the Highway 255 embankment, including the Tuluwat village site, and extensive areas of diked saltmarsh and tidal flats. It was completed in 2003. The study area has been extensively altered initially for agricultural use, later for boat building, maintenance and repair, and was finally abandoned for productive use and has gradually been reclaimed by nature. The study outlined a restoration project including several alternatives for achieving substantial

saltmarsh enhancement, plans for protecting archaeological resources, and a cultural interpretation and education element. Erosion control to protect the ancient shell midden was identified as the highest priority project, along with work to remove hazardous materials left from the boatworks that existed on the site. The study also identified the revegetation of native upland plant species in suitable locations as an enhancement priority, including that incorporated into the erosion control project at the Tuluwat village site.

Through its work with the Conservancy, the National Park Service, the U.S. Environmental Protection Agency and others since acquiring the Tuluwat village parcel in March 2000, the Tribe has gained the experience necessary to carry its multi-faceted restoration project forward. The Conservancy’s assistance with the current proposal is an important step in advancing our mutual goals. Meantime, an application is pending with the U.S. Fish and Wildlife Service to treat invasive English Ivy that has advanced on the island’s egret rookery. Interaction required to coordinate this effort on lands held by the City of Eureka has involved renewed coordination with the City and the Humboldt Bay Harbor, Recreation and Conservation District. Once these smaller projects are accomplished and the hazardous waste remediation effort has been accomplished, the Tribe intends to proceed to develop a more comprehensive habitat restoration effort on the island including removal of portions of the remnant dike and drain system that still, to some degree, regulates tidal inundation and affects habitat vigor.

PROJECT FINANCING:

Coastal Conservancy	\$61,000
National Park Service	56,000
In-kind Contributions:	
Tribe/volunteers and Coast Seafoods, Inc.	<u>15,000</u>
Total Project Cost	\$132,000

Source of Conservancy funding proposed for the project is expected to be Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Act of 2000 (Proposition 12) funds allocated for the acquisition, development, rehabilitation, restoration, enhancement, and protection of real property, or other actions that benefit fish and wildlife, north of the Gualala River. The authorization is consistent with the funding source as the project will provide vegetation and enhanced habitat values at the site.

CONSISTENCY WITH CONSERVANCY'S ENABLING LEGISLATION:

The proposed project is undertaken pursuant to Chapter 6 of Division 21 of the Public Resources Code (Sections 31251-31270 et seq.) as follows:

Under Section 31251, the Conservancy may award grants to public agencies and nonprofit organizations for the purpose of enhancement of coastal resources, which, because of human-induced events, or incompatible land uses, have suffered loss of natural and scenic values. Under Public Resources Code Section 31017, “public agency” includes federally recognized Indian

tribes; the Table Bluff Reservation – Wiyot Tribe is a federally recognized Indian tribe. The proposed authorization will enable the Tribe to enhance Indian Island habitat and scenic values.

Consistent with Section 31252, the proposed project is consistent with the City of Eureka Local Coastal Program as described in the Consistency with Local Coastal Program Policies section below.

Under Section 31253, the Conservancy may provide up to the total cost of any coastal resource enhancement project. Consistent with this section, the proposed authorization provides roughly half of the total project cost with the balance provided by the National Park Service complemented with in-kind services by Coast Seafoods Inc. and the Tribe.

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

Consistent with the Conservancy's Strategic Plan **Goal 5, Objective A** the project would protect, restore and enhance biological diversity in coastal areas by providing a diverse habitat consisting of upland and intertidal species.

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 proposed project is widely supported by elected officials, public agencies concerned with natural resource management, protection of archaeological sites and management of our cultural heritage and members of the public (Exhibit 3, Support Letters).
4. **Location:** The proposed project would be located within the coastal zone of the City of Eureka.
5. **Need:** The Tribe is without resources to make their functional erosion control project an enhancement to the habitat and scenic values of Humboldt Bay without Conservancy assistance.
6. **Greater-than-local interest:** The Indian Island site and the Tribe's restoration efforts there have captured the imagination of the public in northwest California. Their determination to protect the heritage site from erosion then remove hazardous materials and develop a more extensive ecological and cultural interpretive program is a significant undertaking of statewide interest.

Additional Criteria

8. **Resolution of more than one issue:** The project addresses the enhancement of habitat and scenic values at the site while protecting an archaeological site from erosion. At the same time it sets the stage for development of an important educational and interpretive program at the Tuluwat village site if the momentum and cooperation achieved to date can be maintained.
9. **Leverage:** See the “Project Financing” section above.
11. **Innovation:** The project will be a model for bank stabilization efforts, incorporating biotechnical, habitat and scenic values in a design solution where all of those values are often sacrificed in similar less innovative designs.
12. **Readiness:** The Tribe has demonstrated its ability to organize this project with difficult logistical and regulatory hurdles. The Conservancy has every reason to have confidence in their ability to start and finish the project in a timely manner.
13. **Realization of prior Conservancy goals:** See “Project History above.
15. **Cooperation:** The participation of the National Park Service in funding the structural elements of the project and the Army Corps of Engineers and the Coastal Commission in examining the project in detail and providing regulatory approvals, is matched in the private sector by the generous support of Coast Seafoods, Inc. in barging materials to the nearly inaccessible site as an in-kind contribution.

CONSISTENCY WITH LOCAL COASTAL PROGRAM POLICIES:

The project is consistent with the City of Eureka’s Local Coastal Program as amended in September 1998. Specifically, the project is consistent with Section 5, Recreational and Cultural Resources, Goal 5F in that it will “enhance Eureka’s important archaeological and cultural sites and their contributing environment.” It is consistent with Chapter 6, Natural Resources, Goal 6A as it will “protect and enhance the natural qualities of the Eureka area’s aquatic resources and to preserve the areas valuable marine, wetland and riparian habitat.”

COMPLIANCE WITH CEQA:

The California Environmental Quality Act (“CEQA”), Public Resources Code Sections 21000 et seq., applies to discretionary projects that may cause a physical change in the environment, and that are carried out, funded, or approved by public agencies. Pub. Res. Code Sections 21065, 21080. In June 2003, the Wiyot Tribe applied to the California Coastal Commission for a coastal development permit with respect to an erosion-control project on Indian Island. The project included a revegetation element. For reasons explained below, under CEQA, the Conservancy may not rely on the Coastal Commission’s environmental document itself regarding the revegetation work that the Conservancy will fund. However, the Commission’s issuance of a permit with respect to the erosion work supports the conclusion that the Conservancy’s authorization will not adversely affect the environment.

CEQA provides an exemption from compliance with the Act for certified state regulatory programs. Pub. Res. Code Section 21080.5; see also 14 Cal. Code of Regs. Secs. 15250-15253.

Under 14 Cal. Code of Regs. Sec. 15251(c), the regulatory program of the California Coastal Commission pertaining to coastal development permits under the California Coastal Act of 1976, Pub. Res. Code Secs. 30000 et seq., is exempt.

The Coastal Commission reviewed the erosion-control and resource-enhancement project and issued Coastal Development Permit (CDP) No: 1-03-024 dated January 21, 2005. The Commission's administrative regulations require that Coastal Commission approval of CDP applications be supported by a finding showing the application, as modified by any conditions of approval, is consistent with any applicable requirements of the California Environmental Quality Act (CEQA). 14 Cal. Code of Regs. Section 13057(c)(2). Public Resources Code Section 21080.5(d)(2)(A) (a provision of CEQA) prohibits a proposed development from being approved if there are any feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect the proposed development may have on the environment. The project CDP therefore includes Special Conditions pertaining to construction debris disposal and specific construction requirements that ensure the project is conducted in a manner that will not result in adverse impact to the environment. With these Special Conditions the Commission found the project to be consistent with the Coastal Act and to conform to CEQA, and issued a permit.

Under specified conditions, a CEQA responsible agency must use an environmental analysis document prepared for a project under a certified program listed in 14 Cal. Code of Regs. Sec. 15151. 14 Cal. Code of Regs. Sec. 15253(a). In those cases, the "certified agency" acts as the lead agency, and the other agency acts as a CEQA responsible agency.

However, in this case, the requirements of Sec. 15253 are not met. To give just two reasons, the Conservancy is not a regulatory agency, and the Coastal Commission did not consult with the Conservancy at the time the Commission considered the environmental effects of the larger project (including structural work). The Conservancy may therefore not rely on the environmental document prepared by the Commission, the "certified agency."

The work to be funded by the Conservancy is limited to vegetation and habitat enhancement, following completion of the erosion-structure work funded by the National Park Service. Small-scale vegetation and habitat enhancement is categorically exempt under 14 Cal. Code of Regs. Section 15333, Small Habitat Restoration Projects. The exemption applies to projects not to exceed five acres in size to assure the maintenance, restoration, enhancement, or protection of habitat for fish, plants, or wildlife provided that:

- (a) There would be no significant adverse impact on endangered, rare or threatened species or their habitat pursuant to section 15065,
- (b) There are no hazardous materials at or around the project site that may be disturbed or removed, and
- (c) The project will not result in impacts that are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.

The vegetation and enhancement work will not adversely affect endangered, rare or threatened species, as neither endangered species habitat or subject species are found at the site. While there are hazardous materials in the vicinity of the project site, these will not be disturbed or removed in connection with the vegetation and enhancement work. And the work will not result in cumulatively significant adverse impacts in that project permits are conditioned to avoid any actions which, either individually or cumulative in nature, could result in significant adverse impacts to the environment.

Section 15333 provides examples of small restoration projects including “(1) revegetation of disturbed areas with native plant species; . . . (4) projects to restore or enhance habitat that are carried out principally with hand labor and not mechanized equipment; . . . (5) stream or river bank stabilization with native vegetation or other bioengineering techniques, the primary purpose of which is to reduce or eliminate erosion and sedimentation; . . .” These examples fit the Conservancy-funded work very well.

Staff has reviewed project plans, and the permits required for construction, including the Coastal Development Permit and the accompanying Coastal Commission staff report, and has concluded that the Conservancy-funded work meets the conditions contained in Section 15333. Upon approval by the Conservancy, staff will file a Notice of Exemption for the authorized work.