

COASTAL CONSERVANCY

Staff Recommendation

February 3, 2006

**LOS CERRITOS WETLANDS
JOINT POWERS AUTHORITY**

File No. 98-015

Project Manager: Mary Small

RECOMMENDED ACTION: Consideration and possible Conservancy authorization to enter into a joint exercise of powers agreement (JPA) with the City of Long Beach, City of Seal Beach, and the Los Angeles and San Gabriel Rivers and Mountains Conservancy, establishing the Los Cerritos Wetlands Authority for the purpose of acquiring and restoring the Los Cerritos Wetland Complex in Los Angeles and Orange Counties.

LOCATION: The Los Cerritos Wetlands complex is located near the mouth of the San Gabriel River, in the coastal zone. A portion of the site is in the city of Long Beach in Los Angeles County and a portion is in the city of Seal Beach in Orange County.

PROGRAM CATEGORY: Resource Enhancement

EXHIBITS

Exhibit 1: Project Location

Exhibit 2: Project Area

Exhibit 3: Proposed Joint Powers Agreement

Exhibit 4: Memorandum to the Conservancy

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 the Executive Officer to enter into a joint exercise of powers agreement with the City of Long Beach, the City of Seal Beach, and the Los Angeles and San Gabriel Rivers and Mountains Conservancy, establishing the Los Cerritos Wetlands Authority for the purpose of acquiring and restoring the Los Cerritos Wetlands complex. The Conservancy authorizes the Executive Officer or his designee to serve on the Governing Board of the Los Cerritos Wetlands Authority.”

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 the proposed Los Cerritos Wetlands Authority would be consistent with and help to carry out the Los Cerritos Wetland Enhancement Plan approved by the Conservancy on June 25, 2001, and Chapters 6 and 8 of Division 21 of the Public Resources Code.”

PROJECT SUMMARY:

Staff is recommending that the Coastal Conservancy enter into a Joint Exercise of Powers Agreement (JPA) with the Los Angeles and San Gabriel Rivers and Mountains Conservancy (RMC), and the cities of Seal Beach and Long Beach. This item was presented to the Coastal Conservancy at its December 8, 2005 meeting. The Conservancy postponed consideration of this item and requested additional information about the proposed project. Staff prepared a memorandum for the Conservancy, Exhibit 4, to respond to the questions raised at the December 8th meeting.

The JPA would create the Los Cerritos Wetlands Authority (LCWA) for the Los Cerritos Wetlands Area as shown on Exhibit 2. The purpose of the LCWA would be to provide for a comprehensive program of acquisition, protection, conservation, restoration, maintenance and operation and environmental enhancement of the Los Cerritos Wetlands area consistent with the goals of flood protection, habitat protection and restoration, and improved water supply, water quality, groundwater recharge and water conservation. Consistent with the Joint Exercise of Powers Act, codified in Chapter 5 of Division 7 of Title 1 of the Government Code, the Los Cerritos Wetlands Authority would be created to exercise the common powers of the participating agencies.

The Conservancy and others have long sought to acquire the former Los Cerritos Wetlands for the purposes of preserving and restoring coastal wetland habitat. The project area lies within the geographical jurisdiction of both the Coastal Conservancy and the RMC, and restoration of the Los Cerritos wetlands is important to the missions of both agencies. The RMC was established in 1999 to acquire, manage and restore wildlife habitat within the San Gabriel River watershed, and the Coastal Conservancy has been working for more than twenty years to acquire and restore properties within the wetland complex.

One obstacle to completing these acquisitions has been the need for an entity that can take title to the property and manage it while it is being restored. The properties that are proposed for acquisition and restoration straddle the Counties of Los Angeles and Orange, and include portions of the Cities of Long Beach and Seal Beach. No single local entity has jurisdiction over the entire historic wetland complex, and no entity has been willing to take on ownership and management of all of these properties during the restoration phase. The significance and complexity of these projects require the combined the powers and staff resources of the local agency partners and the State agencies, and an integrated approach to restoration and protection of the wetlands. The LCWA would have the ability to acquire and own real property, although it would not have the power of eminent domain. A second major purpose of the LCWA would be to conduct restoration planning and implement that restoration.

The proposed Joint Powers Agreement is attached as Exhibit 3. The LCWA will be established as a separate entity with its own Governing Board. The Governing Board would consist of four voting members: the governing boards of the RMC and the Coastal Conservancy would each

appoint one member; and the City Councils of the Cities of Long Beach and Seal Beach would each appoint one member. Pursuant to this staff recommendation, the Conservancy would appoint the Executive Officer or his designee to serve on the Board of the LCWA. The Executive Officer of the RMC will serve ex officio, without compensation, as the interim Executive Officer of the LCWA, until a permanent Executive Officer of the LCWA is chosen. The City of Long Beach will act as the treasurer, auditor and controller of the LCWA.

According to the terms of the Agreement, it is anticipated that each member agency will contribute a maximum of \$25,000 per year, including both monetary contributions, if any, and the in-kind value of the services of any employees and/or consultants. The Conservancy's contribution for the first year of LCWA operations would be the in-kind value of its staff time working on this project. In addition, the Conservancy may, in the future, grant funds to the LCWA for the acquisition and restoration of properties in the wetland complex.

Site Description:

The Los Cerritos Wetlands complex adjoins the lower reach of the San Gabriel River, where the river mouth historically migrated back and forth across the coastal plain. Prior to channelization of the river, the Los Cerritos Wetlands complex included freshwater and brackish wetlands in its inland areas and saltmarsh closer to the ocean. The size and configuration of the wetlands were subject to occasional major changes when the river channel migrated during flood events. An aerial photo taken in 1927 shows the wetlands covering approximately 1,500 acres.

Today, the wetlands occur in degraded patches across the site. Containment of the San Gabriel River and other development, including oil fields, have reduced the size and degraded the condition of the historic wetland complex. Each of the subject properties support oil production facilities, with remnants of saltmarsh remaining within a grid of levees. Most of the area that could be restored tidal action is up-coast of the river in the City of Long Beach, in Los Angeles County. The area down-coast of the river, in Seal Beach and in an unincorporated area of Orange County, would probably be more feasibly restored to seasonal and other freshwater wetlands.

Although the Los Cerritos Wetlands are surrounded by urban development and have been dramatically altered, they provide valuable habitat to a number of species. Eighty-nine bird species have been recorded using the area, including forty-eight water-associated bird species. Salt marsh fish species can be found in the tidally-influenced, channelized drainages. Special status species occurring in the Los Cerritos Wetlands include Belding's Savannah sparrow, California least tern, Loggerhead shrike, Western snowy plover, California gull, Cooper's hawk, Elegant tern, Long-billed curlew, Northern harrier, Osprey, Southern California rufus-crowned sparrow, and Yellow warbler.

Project History:

The historic and existing wetlands in the Los Cerritos complex have been sought by public agencies and environmentalists for habitat protection and restoration for many years. The Board of Governors of the Southern California Wetland Recovery Project has identified acquisition of these properties as a top priority.

Over the past several years, numerous efforts to acquire these properties have failed. In June 1999, the Conservancy entered into an option to purchase 181 acres of the Bixby property. The option was contingent upon the seller's ability to obtain permits consolidating oil operations; when that permit was denied the option expired. However in the past year there has been significant progress in the negotiations for acquisition of both the Hellman and Bryant properties.

In June 2001, the Conservancy approved Los Cerritos Wetlands Enhancement Plan and authorized the disbursement of up to \$11,400,000 to the Trust for Public Land for the acquisition of property in the Los Cerritos Wetlands Complex. The authorized funding came from a line item appropriation from the General Fund. In June 2004, \$4,000,000 of that money was reverted to help solve the state budget crisis. The \$7,000,000 balance remains available for acquisition of property within the Los Cerritos Wetlands Complex, but must be expended by June 30, 2006. Conservancy staff expects to recommend use of these funds for the purchase of the Bryant property.

After years of work and many false starts, the Trust for Public Land has made significant progress in the past year of negotiations for the acquisition of the Bryant property. An appraisal of the property has been completed that is acceptable to the landowner and has been approved by the Coastal Conservancy's Real Estate Manager. A wetland delineation has been completed and the parties have agreed to a strategy for negotiating liability issues related to existing oil operations. The Trust for Public Land is optimistic that an option agreement for the acquisition of the Bryant property can be completed within a month or two.

The Wildlife Conservation Board and the Coastal Conservancy are also in active negotiations for purchase of 100-acres in the City of Seal Beach which is owned by the Hellman Ranch Company. Negotiations on the Hellman property are proceeding well: an updated appraisal has been completed this month and extensive site characterization work has been done. One of the main impediments to completing this transaction has been the need to identify an entity to take title to the property.

The formation of the LCWA at this time will help to coordinate the efforts of all parties involved in the various acquisition and restoration planning efforts, establish an entity willing and able to take title to properties as they are acquired, and develop the capacity of that entity and participating agencies to manage and plan for restoration of the properties.

PROJECT FINANCING:

Coastal Conservancy	\$ 3,400 (in-kind)
Rivers and Mountains Conservancy	\$ 3,500 (in-kind)
City of Long Beach	\$ 2,700 (in-kind and cash)
City of Seal Beach	<u>\$2,500</u> (in-kind and cash)
Total Project Cost	\$ 12,100

The Conservancy's initial contribution to the establishment of the LCWA will be an in-kind contribution of staff time. Minor cash contributions from the Cities would pay for filing fees and bonding of the LCWA Governing Board members. As described in the proposed Joint Powers Agreement (Exhibit 3), the Conservancy would approve the annual budget of the LCWA. Once the LCWA is formed, an annual budget will be prepared that will be submitted to the Conservancy for its approval. If additional Conservancy funds are requested, staff will request authorization from the Conservancy at that time.

CONSISTENCY WITH CONSERVANCY'S ENABLING LEGISLATION:

The proposed authorization is consistent with Chapters 6 and 8 of the Conservancy's enabling legislation, Division 21 of the Public Resources Code. Acquisition and restoration of fish and wildlife habitat on properties within the Los Cerritos Wetlands complex would help to achieve the purposes set forth in Section 31251, to assemble parcels of land which have suffered a loss of natural and scenic values to improve resource management, relocate improperly located or designed improvements and take other corrective measures to enhance the area's natural and scenic character. In June 2001 the Conservancy approved the Los Cerritos Wetlands Enhancement Plan, pursuant to Chapter 6 of Division 21, whose principal recommendation is that public agencies or private nonprofit organizations should acquire sufficient interests in the privately-owned properties within the Los Cerritos Wetlands complex to enable protection and restoration of wetlands and associated habitat. Establishment of the LCWA would be consistent with and help to implement that approved enhancement plan.

It would also help to carry out the legislative policy stated in Section 31350, to assure that significant coastal resource sites are reserved for public use and enjoyment. Section 31351 directs the Conservancy to cooperate with other public agencies in ensuring the reservation of interests in real property for purposes of Division 21, as well as for park, recreation, fish and wildlife habitat and other purposes required to meet the policies and objectives of the Coastal Act and certified local coastal plans or programs. The Conservancy is also authorized in section 31352(b) to provide technical assistance to aid public agencies and nonprofit organizations in completing acquisitions for these purposes, or for related functions.

Consistent with the Joint Exercise of Powers Act, codified in Chapter 5 of Division 7 of Title 1 of the Government Code, the Conservancy and other public agencies are authorized to enter into agreements to jointly exercise any power common to the contracting parties, if authorized by their legislative or other governing bodies. A joint powers agreement may provide for the creation of an agency or entity which is separate from the parties to the agreement, and which is responsible for administration of the agreement. Pursuant to Government Code Section 6506, one or more parties to the agreement may agree to provide services to the other parties, without the payment of any consideration other than such services.

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

The recommended action would be consistent with of the goals and objectives of the Coastal Conservancy 2003 Strategic Plan.

Consistent with *Coastal Resources Conservation Goal 4, Objective A* of the strategic plan, the proposed project will support acquisition of land to provide larger contiguous blocks of habitat, wildlife corridors and preserves, scenic vistas and open space near urban areas.

Consistent with *Coastal Resources Conservation Goal 5, Objective B* of the strategic plan, the proposed project will preserve and restore habitat corridors between core habitat areas along the coast and from coastal habitats to inland habitat areas.

**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 17 state and federal agencies that comprise the Southern California Wetlands Recovery Project have identified acquisition of the major privately-owned properties with the Los Cerritos Wetlands complex as a high priority.
4. **Location:** The proposed project would be located within the coastal zone of the cities of Long Beach (Los Angeles County) and Seal Beach (Orange County).
5. **Need:** The Los Cerritos properties that are privately owned must be acquired in order to enable restoration of fish and wildlife habitat. The LCWA needs to be created because no single entity or agency has the ability or capacity to take on this project on its own. The Conservancy's involvement is essential because of both its longterm involvement in the acquisition negotiations and its experience and expertise in restoration planning.
6. **Greater-than-local interest:** The historic and existing wetlands in the Los Cerritos complex have been sought by public agencies and environmentalists for habitat protection and restoration for many years. As described above, the site provides habitat for many special status species.

Additional Criteria

7. **Urgency:** The Los Cerritos Wetlands complex is one of the last and best remaining opportunities for coastal wetland restoration in Southern California. The creation of the LCWA is a critical step in completing the acquisition and protection of these properties.

8. **Leverage:** The LCWA will combine the resources of the participating agencies.
9. **Readiness:** In order to be able to accept title and management responsibility for properties whose acquisition is currently being negotiated, it is necessary to form the LCWA now. The RMC, City of Long Beach, and the City of Seal Beach are all in the process of authorizing participation in the LCWA.
10. **Realization of prior Conservancy goals:** “See “Project History” above.”
11. **Cooperation:** The creation of the LCWA will formalize existing cooperation between state and local agencies working to protect and enhance these properties.

CONSISTENCY WITH LOCAL COASTAL PROGRAM POLICIES:

The project is consistent with Section 30230 of the California Coastal Act (Division 20 of the Public Resources Code), which states that “(m)arine resources shall be maintained, enhanced, and, where feasible, restored” and that “environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values”. The Los Cerritos Wetlands Authority is a necessary step toward accomplishing protection and restoration of remaining coastal wetlands.

The portion of the Los Cerritos Wetlands in the City of Long Beach, in Los Angeles County does not have an adopted Local Coastal Plan, it is an area of deferred certification. The major issue with regard to this area is the protection, restoration and enhancement of the wetlands. This project is consistent with that goal. In October 2000, the Coastal Commission approved a permit amendment for the Hellman Ranch property in City of Seal Beach, Orange County which required a deed restriction reserving 100 acres of the lowlands for acquisition for the purpose of wetland restoration. Creation of the LCWA would help complete that acquisition.

COMPLIANCE WITH CEQA:

Formation of the Los Cerritos Wetlands Authority is not a project under the California Environmental Quality Act (CEQA). As defined in 14 Cal. Code of Regulations Section 15378, a “project” for CEQA purposes means the whole of an action which has the potential for resulting in a physical change in the environment, and does not include organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment. The formation of a LCWA is a purely organizational process, although any projects undertaken by the LCWA will be subject to CEQA.