

COASTAL CONSERVANCY

Staff Recommendation

April 27, 2006

LOS CERRITOS WETLANDS

File No. 98-015

Project Manager: Mary Small

RECOMMENDED ACTION: Determination that a five acre parcel, subject of an offer to dedicate fee title, is unsuitable for the purpose of implementing a resource enhancement program at Los Cerritos Wetlands.

LOCATION: City of Long Beach, County of Los Angeles

PROGRAM CATEGORY: Resource Enhancement

EXHIBITS

Exhibit 1: Project Location

Exhibit 2: Aerial Photograph

Exhibit 3: Site Photos

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 determines that the five acre parcel which is the subject the Irrevocable Offer to Dedicate Fee Title, recorded as No. 01-2260417 of Los Angeles County Official Records, is unsuitable for the purpose of implementing a resource enhancement program at the Los Cerritos Wetlands.”

PROJECT SUMMARY:

Staff is recommending that the Conservancy make a determination regarding the current suitability of dedicated property for purposes of implementing a resource enhancement program at the Los Cerritos Wetlands, as required under terms of a recorded offer of dedication, in order to preserve future options with respect to that property.

On May 30, 2001, Southern California Edison made an irrevocable offer to dedicate (OTD) fee title of a 5.11 acre parcel (the Real Property) in Los Angeles County to the State Coastal Conservancy. This offer was made pursuant to the amended Consent Decree, recorded on August 17, 2001, in settlement of the matter of Earth Island Institute, Donald May and David Jeffries v. Southern California Edison Company (US District Court, Southern District of California Case No. 90CV1535-B) regarding the impacts of Edison's San Onofre Generating Station. The purpose of the OTD was "to dedicate fee title to the Real Property to implement the Conservancy's resource enhancement program at the Los Cerritos Wetlands". It also provided, however, that if the Conservancy determines that the Real Property is unsuitable for the Conservancy's Los Cerritos Wetlands program, then its purpose shall be to generate sale proceeds to fund the Southern California Wetlands Recovery Project or, should that project cease to exist, to fund wetland acquisition and/or restoration in Southern California.

The OTD contains a specific timeline and process for the Coastal Conservancy or its designee to accept the offer or sell the Real Property. Under the terms of the OTD, the Conservancy is required to make a determination as to whether the Real Property is suitable for the purpose of implementing a resource enhancement program at Los Cerritos Wetlands within five years of the execution of the agreement, by May 30, 2006. If the Conservancy determines that the property is unsuitable for a resource enhancement program at Los Cerritos Wetlands, the Conservancy may sell or transfer the Real Property and use up to \$1.8 million of the proceeds to fund the Southern California Wetland Recovery Project. (If the sale of the property generates more than \$1.8 million, the excess amount must be returned to Southern California Edison.) The OTD expires and the Conservancy loses all interest in the Real Property on May 30, 2007, unless it is accepted prior to that date.

If the Conservancy makes the determination that the Real Property is unsuitable for a resource enhancement program, May/Jeffries (parties to the lawsuit) may prepare a list of at least three potential transferees for the Real Property. This list must be prepared within ten months. After receipt of the list, the Conservancy has sixty days to either 1) accept the offer and sell the Real Property to the transferee at fair market value or 2) assign the Conservancy's rights under the OTD to the transferee for monetary consideration. If none of the potential transferees can or will accept the Real Property, the Conservancy can sell or assign its rights to another entity. At any time prior to expiration of the offer, the Conservancy has the right to reverse its determination about the suitability of the Real Property.

At this time, the property is unsuitable for the purpose of implementing a resource enhancement program at Los Cerritos Wetlands. The Real Property is 5.11 acres of uplands, bordered to the north and east by industrial uses. The Coastal Conservancy has worked for more than twenty years to acquire undeveloped properties at Los Cerritos, including the land across the roads to the South and West of the Property. Negotiations are pending for the acquisition of land south of the Real Property but the proposed acquisition is not be contiguous with the Real Property. Unfortunately, at this time there are no active projects to acquire land immediately adjacent to the Real Property. Therefore, the 5.11 acre parcel is isolated upland that does not currently have a resource enhancement use.

Staff is recommending that the Conservancy make a formal determination of unsuitability at this time in order to comply with timelines established in the offer, so that other potential transferees can be sought, and in order to preserve the Conservancy's ability to sell the Real Property and use the proceeds for other wetland restoration purposes. Unless such a determination is made

now, those opportunities will be lost and the Conservancy's only choices would be to either accept the offer or permit it to expire. Should circumstances change over the next year, as a result of the acquisition of other property or for any other reason, such that the Real Property becomes suitable for use in a Los Cerritos wetlands restoration program, the Conservancy retains the ability to reverse this determination, accept the offer, and use the Real Property for purposes of that program.

Site Description: The Real Property is located at the northeast corner of the intersection of North Studebaker Road and Westminster Avenue in Long Beach, California, adjacent to Westminster Avenue on the south and Studebaker Road on the west. The parcel and its surroundings are generally flat with little vegetation. The Real Property lies on formerly a marsh and low-lying area that has been graded to provide the present configuration. Dredge spoils were used to bring the site to its current grade. The past use of the area has been an oil field, and an equipment storage area and maintenance facility consisting of office trailers and steel storage containers. Currently the site is vacant.

As part of the agreement with Southern California Edison, Phase 1 and Phase 2 Environmental Assessments of the property have been completed. The California Department of Toxic Substance Control has reviewed the work completed by a contractor to Southern California Edison and determined that the property was suitable for commercial/industrial use.

Pacific Energy aboveground bulk oil storage tanks are located to the north and east of the Real Property. Beyond the Pacific Energy tanks, to the north, is the AES Alamitos Generation Station. Beyond the Pacific Energy tanks, to the east, is the San Gabriel River. To the northwest are undeveloped wetlands, oil wells and associated piping, and the Los Cerritos Channel. Located south of the Real Property is Westminster Avenue and across from Westminster Avenue is an undeveloped wetlands area, with localized oil wells, and the San Gabriel River. Studebaker Road lies to the west, and across Studebaker Road are oil fields with active oil wells and undeveloped wetlands.

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.

There are active negotiations underway for two of the properties within the Los Cerritos Wetlands; however at this time neither of those deals has been completed. In February 2006, the Conservancy agreed to form the Los Cerritos Wetlands Joint Powers Authority (JPA) with the Cities of Seal Beach and Long Beach and the Rivers and Mountains Conservancy. The purpose of the JPA is to provide a comprehensive program of acquisition, protection, conservation, restoration, maintenance and operation and environmental enhancement of the Los Cerritos Wetlands area. It is anticipated that the formation of the JPA will help move the acquisition projects forward. The JPA could also be a potential transferee of the dedicated Real Property, or could be designated by the Conservancy to accept the offer, should the Conservancy reverse its determination regarding suitability of the parcel for wetland restoration within the next year.

PROJECT FINANCING:

Coastal Conservancy	0
Total Project Cost	\$0

CONSISTENCY WITH CONSERVANCY'S ENABLING LEGISLATION:

The Conservancy is authorized to acquire and accept the dedication of interests in real property pursuant to a number of provisions within Division 21 of the California Public Resources Code. Section 31104.1 directs the Conservancy to serve as a repository for land whose reservation is required to meet the policies and objectives of the Coastal Act or a certified local coastal program, and authorizes the acceptance of dedications of fee title and other interests in land. Under Section 31105, the Conservancy is authorized to acquire real property and real property interests for all of the purposes specified in Division 21. Section 31350 states the intent of the Legislature to vest authority in the Conservancy to acquire, hold, protect and use interests in key coastal resource lands that otherwise would be lost to public use. As the entity designated to accept or otherwise dispose of the dedication which is the subject of this recommendation, the Conservancy would be fulfilling its statutory responsibilities by making the recommended determination.

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

The recommended action would not itself accomplish Conservancy strategic plan goals and objectives, but is necessary to preserve the opportunity to preserve and enhance coastal habitats, including wetlands, consistent with Goal 5, Objective A.

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:** No Conservancy funds are required at this time.
3. **Support of the public:** The Conservancy's rights and responsibilities under the offer to dedicate are the outcome of litigation brought by a nonprofit public interest organization, Earth Island Institute, and members of the public concerned about the restoration and preservation of the Los Cerritos wetlands complex and Southern California wetlands generally.
4. **Location:** The proposed project would be located within the coastal zone of the City of Long Beach in Los Angeles County.

5. **Need:** The Conservancy needs to make a determination about the suitability of the Property by May 30, 2006 in order to preserve the option of selling the Real Property.
6. **Greater-than-local interest:** The Los Cerritos Wetlands is located along the lower reach of the San Gabriel River, where the river historically migrated back and forth across the coastal plain. Prior to channelization of the river, the Los Cerritos Wetlands included freshwater and brackish wetlands and saltmarsh. It is estimated that the historic wetlands covered more than 1,500 acres. Although the Los Cerritos Wetlands are surrounded by urban development and have been dramatically altered, they continue to provide valuable for a number of species including Cooper's hawk, Elegant tern, Long-billed curlew, Northern harrier, Osprey, and Yellow warbler. The site offers a rare opportunity to restore a coastal wetland, within the Southern California region it is estimated that more than 90 of the coastal wetlands have been destroyed.

CONSISTENCY WITH LOCAL COASTAL PROGRAM POLICIES:

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.

COMPLIANCE WITH CEQA:

The recommended determination 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.