

## COASTAL CONSERVANCY

Staff Recommendation

January 17, 2008

### **EAST SWEET SPRINGS ACQUISITION**

File No. 07-102-01

Project Manager: Timothy Duff

**RECOMMENDED ACTION:** Authorization to 1) disburse up to \$1,000,000, including \$500,000 from the U.S. Fish and Wildlife Service National Coastal Wetlands Conservation Program, to the Morro Coast Audubon Society to acquire the 8 acre East Sweet Springs property on the south Morro Bay shoreline, 2) transfer to the Morro Coast Audubon Society ten contiguous undeveloped lots located near the south Morro Bay shoreline, and 3) disburse \$100,000 to Audubon to manage and restore these properties, San Luis Obispo County.

**LOCATION:** Coastal Zone, South Morro Bay shoreline in the communities of Los Osos and Cuesta-by-the-Sea, unincorporated San Luis Obispo County (Exhibits 1 and 2)

**PROGRAM CATEGORY:** Resource Enhancement

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#### **EXHIBITS**

Exhibit 1: [Project Location](#)

Exhibit 2: [Site Photos](#)

Exhibit 3: [1983 Staff Recommendation – Land Donation](#)

Exhibit 4: [Implementation Plan](#)

Exhibit 5: [East Sweet Springs Property](#)

Exhibit 6: [Map of Protected Lands](#)

Exhibit 7: [Letters of Support](#)

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#### **RESOLUTION AND FINDINGS:**

Staff recommends that the State Coastal Conservancy adopt the following Resolution pursuant to Sections 31251-31270 and 31107 of the Public Resources Code:

”The State Coastal Conservancy hereby 1) authorizes disbursement of up to one million dollars (\$1,000,000), including five hundred thousand dollars (\$500,000) from the U.S. Fish and Wildlife Service National Coastal Wetlands Conservation Program, to the Morro Coast Audubon Society (Audubon) to acquire fee title to an 8-acre property (San Luis Obispo County Assessor Parcel Number 074-229-009), as shown on Exhibit 5 to the accompanying staff

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recommendation; 2) approves of the transfer to the Audubon ten contiguous undeveloped lots located near south Morro Bay shoreline (San Luis Obispo County Assessor Parcel Number 74-141-020) as shown in Exhibit 3 to the accompanying staff recommendation; 3) approves the implementation plan for the lot transfer as shown in Exhibit 4 to the accompanying staff recommendation; and 4) authorizes disbursement of up to one hundred thousand dollars (\$100,000) to Audubon to manage and restore these properties. This authorization is subject to the following conditions:

1. Prior to disbursement of any funds for acquisition, the Executive Officer of the Conservancy (Executive Officer) shall review and approve all relevant acquisition documents, including the appraisal, agreement of purchase and sale, escrow instructions, deeds and documents of title, and evidence of the availability of all additional funds necessary to the acquisition of the property.
2. The Audubon shall not pay more than fair market value for the property acquired pursuant to this authorization, as established in an appraisal approved by the Executive Officer.
3. The Audubon shall permanently dedicate these properties, in accordance with the requirements of Public Resources Code 31116(b), for habitat and open space preservation, resource enhancement and management, and for public access consistent with these purposes.
4. Conservancy funding shall be acknowledged by erecting and maintaining on the properties a sign that has been reviewed and approved by the Executive Officer.”

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 project is consistent with the guidelines and criteria in Chapter 6 of the Public Resources Code (Sections 31251-31270) regarding the enhancement of coastal resources.
2. The proposed project is consistent with Public Resources Code Section 31107 regarding the transfer to the Audubon of the Conservancy’s ten contiguous undeveloped lots pursuant to an approved implementation plan.
3. The proposed project is consistent with the Conservancy's Project Selection Guidelines and Criteria adopted by the Conservancy on January 24, 2001, and updated on September 20, 2007.
4. Protecting lands in the project area has been identified in the San Luis Obispo County Estero Area Local Coastal Plan as requiring public action to resolve existing or potential resource protection problems, consistent with Public Resources Code Section 31252.
5. The Morro Coast Audubon Society is a nonprofit organization existing under the provisions of Section 501(c)(3) of the U.S. Internal Revenue Code, whose purposes are consistent with Division 21 of the California Public Resources Code.”

**PROJECT SUMMARY:**

Authorization to disburse \$1,100,000.00 (\$500,000 U.S. Fish and Wildlife Service grant funds and up to \$600,000 in Conservancy funds) to the Morro Coast Audubon Society (Audubon) will enable Audubon to acquire and restore the 8-acre East Sweet Springs property located on the south shore of Morro Bay adjacent to the existing 24-acre Sweet Springs Nature Preserve, a property that Audubon has owned and managed since 1985. A portion of the Conservancy funds will be used by Audubon to restore and maintain an additional one acre parcel along the south Morro Bay shoreline, which staff is recommending for transfer to Audubon from the Conservancy. The restoration activities on both properties will be limited in scope, and will include preparation of resource inventories, posting of new fencing, removal of exotic plants and planting of natives, and tree maintenance.

With an additional \$1,000,000 in other state and federal matching funds, Audubon's acquisition of the East Sweet Springs property will serve to permanently protect this property's outstanding coastal wetland and wildlife habitat values, including a myriad of state and federally listed plant and animal species, and migratory birds. Audubon will manage the property as an expansion of the existing Sweet Springs Nature Preserve, increasing its size by more than a third. The project takes advantage of a unique opportunity to expand the preserve, protect a contiguous corridor of coastal wetlands, and broaden Audubon's current education, recreation, and restoration programs at the site.

Acquisition and protection of the East Sweet Springs property serves to further implement the Baywood and Los Osos Conservation Plan approved by the Conservancy in 2001, and the Morro Bay Watershed Enhancement Plan adopted by the Conservancy in 1990. Both plans contain recommendations to acquire and protect lands surrounding the Morro Bay estuary and its watershed, and numerous properties have been acquired over the past two decades (Exhibit 6). The proposed acquisition will eliminate all future development on the site, serving to prevent potential future erosion and sedimentation into the estuary. Eliminating potential sediment sources is a high priority recommendation in the Conservancy's enhancement plans and the Morro Bay National Estuary's conservation plan. These plans confirm that sedimentation and loss of wetlands threaten the habitat for thousands of coastal-dependent and migratory birds and many fish species that rely upon the shallow water, eelgrass beds and wetlands of the estuary for protected habitat and rich food sources.

The proposed project also entails the transfer of fee title to ten contiguous, undeveloped, residentially-zoned lots located near the south Morro Bay shoreline that the Conservancy has owned since 1983, when the previous private landowner donated them to the Conservancy (Exhibit 3). Covering slightly less than one acre of land in the small unincorporated community of Cuesta-by-the-Sea, the site contains a mature stand of eucalyptus trees and small areas of wetland habitat associated with the nearby shoreline of south Morro Bay. The purpose of the transfer is to relieve the Conservancy of the responsibilities associated with owning and maintaining the site, while ensuring the property is protected and maintained for resource protection, open space and public access purposes.

The Audubon is well positioned to carry out this project. Audubon currently owns and manages four properties in the project area covering 30 acres, including the Sweet Springs Nature

Preserve which it has owned and managed for over 20 years. Audubon has an active and committed board of directors that includes several natural resource and land use professionals.

**Site Description:** The Morro Bay National Estuary is one of just three estuaries in the state that serve as part of the National Estuary Program. The estuary supports the most significant wetland system on California's central coast, serving as a link for migratory birds and is home to a diverse collection of wildlife species, many of which cannot be found anywhere else in the world. Morro Bay perennially ranks among the top sites in the nation during the Audubon Christmas Bird Count and is considered a Globally Important Bird Area. Morro Bay is designated by the Central Coast Region Water Quality Control Board (RWQCB) as a 303(d) impaired water body listing due to its excessive sediment loads.

The eight-acre East Sweet Springs property to be acquired contains five acres of wetlands associated with Morro Bay National Estuary, and three acres of associated upland dune habitat with remnant patches of coastal scrub and dune habitats (Exhibit 3). The uplands habitats also have small stands of Monterey cypress and eucalyptus trees which are not native to the Morro Bay region but support a migrating population of Monarch butterflies. The site is zoned for residential uses, but due to an ongoing moratorium on residential development in the project area that was established by the RWQCB in 1988, no such development could occur on the property until a new wastewater treatment plant is built to provide the necessary sewer service to the site. In addition, a lack of sufficient water capacity also constrains the level of potential development on the site and surrounding area.

The ten lots owned by the Conservancy which, subject to this authorization, may be transferred to Audubon, cover .92 acres in the unincorporated community of Cuesta-by-the-Sea on Morro Bay's south shore. The site contains a mature stand of approximately twenty eucalyptus trees and small areas of wetland habitat associated with the nearby shoreline of south Morro Bay known as Cuesta Inlet. The site is zoned for residential uses, but due to the building moratorium in the area no such development could occur until new sewer service is provided to the site. In addition, a lack of sufficient water capacity also constrains the level of potential development on the site.

**Project History:** Since 2002, the Conservancy and its land trust partners at the Trust for Public Land (TPL) have sought to acquire the East Sweet Springs property as an addition to the existing Sweet Springs Nature Preserve. After five years of on and off negotiations, in the summer of 2007 TPL negotiated and signed an agreement with the private landowners to acquire the site. Audubon agreed later that summer to assume ownership of the property. In the summer of 2007, TPL and Conservancy staff toured the site with USFWS staff who indicated support for Conservancy submittal of a Coastal Wetlands grant program application that was prepared and submitted in the fall of 2007. A decision on this application is expected in early January 2008. TPL and Conservancy staff also coordinated the preparation of funding proposals to the Wildlife Conservation Board (WCB), and WCB is expected to approve funds for the acquisition at its February 2008 board meeting.

**PROJECT FINANCING:**

East Sweet Springs Acquisition

Coastal Conservancy	500,000
Wildlife Conservation Board (pending)	1,000,000
USFWS Coastal Wetlands (pending)	<u>500,000</u>
<b>Subtotal</b>	<b>\$2,000,000</b>

Restoration and Management (East Sweet Springs & Conservancy Lots)

Coastal Conservancy	<u>\$100,000</u>
<b>Total Project Cost</b>	<b>\$2,100,000</b>

The expected source of Conservancy funds for proposed acquisition is the FY 05/06 appropriation to the Conservancy from the Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002 (Proposition 50). Proposition 50 authorizes the use of funds to promote public access to and participation in the conservation of land, water, and wildlife resources (Water Code, Section 79571(b)), and requires that ten percent of the amount appropriated to the Conservancy be directed to facilities such as research and/or nature centers. Eligible projects under § 79571 include both research facilities for watershed protection and conservation and nature centers that are in or adjacent to watersheds and wetlands and provide wildlife viewing, outdoor experiences, and conservation education programs. Funding priority is to be given to nature center projects operated by nonprofit organizations that provide educational opportunities to children from urban areas that lack access to such opportunities.

Consistent with these requirements, the acquisition of the East Sweet Springs property by the nonprofit Audubon will provide public access to the Morro Bay shoreline, and provide wildlife viewing, outdoor experiences, and education programs focusing on the conservation of wetlands, wildlife habitat, and water quality. The acquisition will enable Audubon to provide educational opportunities for the public and students from inland urban areas that lack access to such opportunities (e.g. Paso Robles, Santa Maria), and for Cal Poly State University, local community colleges, high schools and grade schools.

The expected source of Conservancy funds for the restoration and management activities is the FY 2005/06 appropriation to the Conservancy from the Environmental License Plate Fund. Under Public Resources Code Section 21190, these funds may generally be used for preservation and restoration of natural areas and fish and wildlife habitat and for protection of threatened and endangered animals. Consistent with that requirement, the proposed restoration and management activities will serve to restore natural areas along the Morro Bay shoreline that are used by a wide array of wildlife, and protect threatened and endangered species.

**CONSISTENCY WITH CONSERVANCY'S ENABLING LEGISLATION:**

This project would be undertaken pursuant to Chapter 6 of the Conservancy's enabling legislation (Public Resources Code Sections 31251-31270). Consistent with Section 31252(a), County of San Luis Obispo officials have requested that the Conservancy undertake this project (see support letters attached as Exhibit 6). Consistent with Section 31252, the project area is identified in the County's certified local coastal program as requiring public action to protect the natural and scenic resources the Morro Bay Estuary. 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 enhancement projects and the relative urgency of the project. Consistent with Section 31251, the Conservancy may award grants to nonprofit organizations for the purpose of enhancement of coastal resources. Audubon is a private, nonprofit organization that qualifies under Section 501(c)(3) of the United States Internal Revenue Code, and whose purposes are consistent with those defined in Section 31013 of the Public Resources Code. The proposed project is consistent with the San Luis Obispo County Estero Bay Area Local Coastal Program as described in the Consistency with Local Coastal Program Policies below.

Consistent with Section 31107, the Conservancy may request the Director of General Services to transfer the Conservancy's ten contiguous undeveloped lots to the Audubon, subject to an implementation plan approved by the Conservancy.

**CONSISTENCY WITH CONSERVANCY'S 2007 STRATEGIC PLAN GOAL(S) & OBJECTIVE(S):**

Consistent with **Goal 4A**, the proposed project would protect eight acres of significant coastal watershed lands.

Consistent with **Goal 5A, B and D** the proposed project will facilitate the development and implementation of restoration plans to restore up to five acres of coastal wetlands and intertidal areas, and to eradicate and control invasive species.

**CONSISTENCY WITH CONSERVANCY'S  
PROJECT SELECTION CRITERIA & GUIDELINES:**

The proposed project is consistent with the Conservancy's Project Selection Criteria and Guidelines, last updated on September 20, 2007, 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:** This project enjoys the support of local and state elected officials, public agencies, and nonprofit organizations. See letters of support attached as Exhibit 6.
4. **Location:** The proposed project is located within the coastal zone of San Luis Obispo County.
5. **Need:** Conservancy funds are needed to match other state and federal funds to acquire the subject property. The Conservancy needs to transfer the lots it currently owns and has identified a qualified organization to accept and manage these lots.
6. **Greater-than-local interest:** The East Sweet Springs acquisition, and its connectivity to the Sweet Springs Nature Preserve adds to the network of protected lands on the shore of the bay, creating a corridor of rare coastal wetlands and coastal dune habitat that will benefit hundreds of wildlife species. Morro Bay has national and statewide significance with designations as both a National and State Estuary.

**Additional Criteria**

7. **Urgency:** The TPL's option agreement to acquire and transfer the East Sweet Springs property to Audubon requires its purchase to be completed by March 2008.
8. **Leverage:** See the "Project Financing" section above.
9. **Readiness:** The land acquisition and transfer projects are ready to be completed pending approval by the funding partners.
10. **Realization of prior Conservancy goals:** The project is consistent with and serves to implement the Baywood and Los Osos Conservation Plan recommendations approved by the Conservancy in 2001 to acquire important natural resource properties in the project area. The project is consistent with the Morro Bay Watershed Enhancement Plan approved by the Conservancy in 1990 that recommends acquisition and restoration projects to reduce sediments and other pollutants entering the bay. Since 1985, over 3,000 acres of habitat have been permanently protected along the Morro Bay shoreline and upper watershed, and over 4.5 miles of stream habitat have been restored.
11. **Return to Conservancy:** See the "Project Financing" section above.

12. **Cooperation:** The project entails a cooperative multi-agency effort in partnership with a local non-profit partner.

**CONSISTENCY WITH LOCAL COASTAL PROGRAM POLICIES:**

The project is consistent with the San Luis Obispo County Estero Area Local Coastal Plan, certified in 1987. Chapter 7 (Combining Designations) Section B (20) recommends “open space agreements or other appropriate instruments to protect portions of properties with sensitive resources...”. The Morro Bay shoreline area is defined in the LCP as a sensitive resource, and the subject properties contain these types of resources.

**COMPLIANCE WITH CEQA:**

The acquisition and transfer of property as provided in this staff recommendation is categorically exempt from the California Environmental Quality Act (“CEQA”) pursuant to 14 California Code of Regulations: (1) Section 15325 because it is a transfer of ownership of interests in land in order to preserve open space and existing natural conditions; and (2) Section 15313 because it is an acquisition of land for fish and wildlife conservation purposes including preservation of fish and wildlife habitat.

The proposed restoration activities, including the revegetation and restoration of habitat areas, are exempt from CEQA under Sections 15304 (Minor Alterations to Land) and 15303 (New Construction or Conversion of Small Structures). Consistent with Section 15304, the proposed restoration projects will consist of minor alterations in the condition of the land, water, and vegetation that do not involve removal of healthy, mature, scenic trees. Further, consistent with 15304(a), any grading will be on land with a slope of less than 10 percent and will not occur in any waterway, wetland, officially recognized scenic area, or severe geologic hazard area. The proposed fencing to protect sensitive habitat areas is also exempt under Section 15303 which exempts “...construction and location of limited numbers of new, small facilities, or structures...”. Section 15303(e) specifically provides an exemption for accessory structures such as fences. Upon approval staff will file a Notice of Exemption for this project.