

COASTAL CONSERVANCY

Staff Recommendation

April 24, 2008

**APPROVAL OF ACCEPTANCE OF OFFER TO DEDICATE AN EASEMENT
ON PARCEL 4, EUREKA MARSH**

File No.08-026-01

Project Manager: Joel Gerwein

RECOMMENDED ACTION: Authorization of Redwood Region Audubon Society to accept the Offer to Dedicate an open space easement over fifteen acres of land adjacent to Humboldt Bay made by the City of Eureka.

LOCATION: Eureka, CA

PROGRAM CATEGORY: Resource Enhancement

EXHIBITS

Exhibit 1: [Parcel 4 Location and Site Map](#)

Exhibit 2: [Offer to Dedicate an Open Space Easement over Parcel 4](#)

Exhibit 3: [Redwood Region Audubon Society Board Resolution](#)

Exhibit 4: [Letters of Support](#)

RESOLUTION AND FINDINGS:

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

“The State Coastal Conservancy hereby authorizes the Redwood Region Audubon Society to accept the Offer to Dedicate an open space easement over approximately 15 acres of land located on Humboldt Bay in Eureka, California (APN 007-061-06 and 007-071-14), made by the City of Eureka on December 20, 1985.”

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 purposes and criteria set forth in Chapter 6 of Division 21 of the Public Resources Code (Sections 31251-31270) regarding the enhancement of coastal resources.

2. The Redwood Region Audubon Society is a nonprofit organization existing under section 501(c)(3) of the Internal Revenue Service Code, and whose purposes are consistent with Division 21 of the Public Resources Code.”

SUMMARY OF ACTION:

The proposed authorization would allow the Redwood Region Audubon Society (RRAS) to accept the Offer to Dedicate (OTD) an open space easement over approximately 15 acres of land located on Humboldt Bay in Eureka, CA, hereafter referred to as “Parcel 4” (APN 007-061-06 and 007-071-14) (Exhibit 1), made by the City of Eureka (the City) on December 20, 1985 (Exhibit 2). Accepting the OTD would limit the use of Parcel 4 lands to “natural open space, habitat, and conservation purposes,” thereby resolving the uncertainty and controversy concerning future uses of the property. In addition to accepting the City’s OTD, RRAS would record an offer to dedicate the resulting open space easement to the Conservancy, which could be accepted in the event that RRAS ceases to exist or violates the terms of the open space easement.

The City’s OTD was recorded as a requirement of the City’s Conservancy-funded acquisition of Palco Marsh which is further described in the “Project History” section below.

Redwood Region Audubon Society is an appropriate organization to accept the OTD, as it has long been active in efforts to protect and restore the natural environment, especially around Humboldt Bay. The leadership of RRAS is familiar with the conditions and history of Parcel 4, and has formally expressed its interest in accepting the OTD (Exhibit 3). RRAS has also expressed interest in exploring the feasibility of future wetland restoration on the property in conjunction with the City.

Site Description: Parcel 4 consists of approximately 15 acres of land located on Humboldt Bay in Eureka, CA (Exhibit 1). The site is bordered on the south by a Chevron storage facility, on the east by the Bayshore Mall, and on the north by tidal wetlands. According to a wetland delineation report prepared in 2003 by SHN Consulting Engineers and Geologists, Inc. (“SHN”), Parcel 4 contains approximately 10.1 acres of wetland and 4.7 acres of uplands. Wetland habitats on the property consist of rocky intertidal, coastal salt marsh, willow-wax myrtle scrub, and coastal emergent wetland. Point Reyes bird’s beak (*Cordylanthus maritimus* ssp. *palustris*) and Humboldt Bay owl’s clover (*Castilleja ambigua* ssp. *humboldtiensis*) occur in salt marsh on a portion of the site. The California Native Plant Society has ranked these two plant species as threatened (List 1B.2). Upland habitats in Parcel 4 consist of weedy areas, areas of compacted gravel and concrete fill, deteriorated concrete structures, and associated access roads. Parcel 4 is zoned for coastal dependent industrial use, as shown in Figure B-2 of the City’s 1997 General Plan Policy Document, which was certified by the Coastal Commission as an update to the City’s Local Coastal Plan in 1999.

Project History: Parcel 4 was acquired by the City of Eureka in 1985, together with approximately 85 additional acres known as the Palco Marsh. The acquisition of these lands was made possible by a Conservancy grant of \$610,000 to the City, and by the sale of the property by Pacific Lumber Company at half of its appraised value. Grant Agreement No. 85-019-85-63-A stipulates the terms of the Conservancy grant to the City. Under the terms of the agreement, the City was given 10 years to propose a viable coastal dependent development project for Parcel 4, and would have been required to repay the Conservancy up to \$275,000 for the parcel. The City expressed an interest in facilitating coastal dependent industrial development on Parcel 4 on

several occasions, most recently in its Waterfront Drive Project Description, part of a Notice of Preparation that was recirculated in October 2007. However, the City never presented a detailed plan regarding such development on Parcel 4, nor did it authorize the use of any funds to repay the Conservancy for Parcel 4's purchase. The Conservancy's grant agreement provided that if the City was unable to identify an acceptable project by 1995, the Conservancy could accept the OTD or authorize a nonprofit organization to accept it. Local environmental organizations, such as the Redwood Chapter of the Sierra Club and the Environmental Protection Information Center, have expressed their desire that Parcel 4 should be protected from development because of the biological value of its wetlands and rare plant populations.

The 1985 grant agreement to the City of Eureka and the accompanying OTD indicate that future uses of Parcel 4 should have been clarified by 1995. Authorizing RRAS to accept the City's OTD would resolve questions regarding future uses of the property.

CONSISTENCY WITH CONSERVANCY'S ENABLING LEGISLATION:

The proposed authorization is made pursuant to Chapter 6 of Division 21 of the Public Resources Code (Sections 31251-31270), as follows:

Pursuant to Section 31251, the Conservancy may award grants to public agencies or nonprofit organizations for the purpose of enhancement of coastal resources that have suffered loss of natural values because of human-induced events. Consistent with this section, the Conservancy awarded such a grant to the City in 1985 for the acquisition and enhancement of Palco Marsh. As discussed above, the 1985 grant agreement to the City and the accompanying OTD indicate that future uses of Parcel 4 should have been clarified by 1995. Authorizing RRAS to accept the City's OTD would resolve questions regarding future uses of the property, fulfilling the terms of the 1985 grant agreement. The Conservancy entered into that grant agreement consistent with Section 31251 of the Public Resources Code. Furthermore, limiting the uses of Parcel 4 to "natural open space, habitat, and conservation purposes" would facilitate the potential restoration of wetlands on the site. As noted above, RRAS has expressed interest in restoring these wetlands.

Pursuant to Section 31252, all areas proposed for resource enhancement should be identified in a certified local coastal plan or program as requiring public action to resolve existing or potential resource problems. The City's 1997 General Plan Policy Document (GPPD), which was certified by the Coastal Commission as an update to the City's Local Coastal Plan in 1999, states that the City "shall maintain and, where feasible, restore biological productivity and the quality of coastal waters, streams, wetlands, and estuaries..." (GPPD Section 6.A.1, pg. B-14). As noted above, wetlands occupy approximately 10 acres of Parcel 4. Protection and potential restoration of these areas is called for by the Local Coastal Plan policy cited above. The GPPD also states that the City shall prepare a wetlands management, restoration, and enhancement program whose objectives shall include providing "stable boundaries and buffers between urban and habitat areas" (GPPD Section 6.A.23, pg. B-18). Authorizing RRAS to accept the City's OTD will resolve potential problems stemming from the uncertainty over the boundary between urban and habitat areas in Parcel 4.

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

Consistent with **Goal 4, Objective A** of the Conservancy's 2007 Strategic Plan, the proposed authorization will protect 15 acres of significant coastal resource property.

CONSISTENCY WITH CONSERVANCY'S PROJECT SELECTION CRITERIA & GUIDELINES:

The proposed authorization 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:** No funds are required for this authorization.
3. **Support of the public:** Local environmental organizations, such as the Redwood Chapter of the Sierra Club and the Environmental Protection Information Center, have expressed their desire that Parcel 4 should be protected from development because of the biological value of its wetlands and rare plant populations (See Exhibit 4).
4. **Location:** The proposed project would be located within the coastal zone of the City of Eureka.
5. **Need:** The OTD will not be accepted without Conservancy authorization.
6. **Greater-than-local interest:** The authorization will protect tidal marsh and other coastal wetlands on Humboldt Bay. Humboldt Bay and its associated coastal wetlands provide fish and wildlife habitat of regional and statewide importance for resident and migratory species.

Additional Criteria

7. **Conflict resolution:** Authorizing RRAS to accept the City's OTD would resolve questions regarding future uses of Parcel 4.
8. **Readiness:** RRAS is prepared to accept the OTD.
9. **Realization of prior Conservancy goals:** See "Project History" above.

CONSISTENCY WITH LOCAL COASTAL PROGRAM POLICIES:

The City's 1997 General Plan Policy Document (GPPD), which was certified by the Coastal Commission as an update to the City's Local Coastal Plan in 1999, contains several policies consistent with the preservation of Parcel 4 as open space. The LCP designates wetlands as environmentally sensitive habitat areas (GPPD Section 6.A.6, pg. B-15) and states that the City "shall ensure that environmentally sensitive habitat areas are protected against any significant disruption of habitat values, and that only uses dependent on such resources shall be allowed

within such areas” (GPPD Section 6.A.7, pg. B-15). The GPPD also states that the City “shall maintain and, where feasible, restore biological productivity and the quality of coastal waters, streams, wetlands, and estuaries...” (GPPD Section 6.A.1, pg. B-14). As noted above, wetlands occupy approximately 10 acres of Parcel 4, and contain rare plant species. Protection of these areas is consistent with the Local Coastal Plan policies cited above.

COMPLIANCE WITH CEQA:

Authorization of RRAS to accept the Parcel 4 OTD is categorically exempt from the requirements of the California Environmental Quality Act (“CEQA”) under 14 California Code of Regulations Section 15325 because it involves the transfer of an interest in land to preserve open space and plant and animal habitat. Staff will file a Notice of Exemption upon approval of the project.