

COASTAL CONSERVANCY

Staff Recommendation
October 21, 2010

**IRISH HILLS CONSERVATION PROJECT:
WILD CHERRY CANYON ACQUISITION**

File No. 08-114-02
Project Manager: Tim Duff

RECOMMENDED ACTION: Amend the Conservancy's November 6, 2008 authorization to change the Conservancy's condition for the fee transfer date of the Wild Cherry Canyon Property, San Luis Obispo County, to the California Department of Parks and Recreation from 2025 to 2030.

LOCATION: Between Avila Beach and Port San Luis, western San Luis Obispo County (Exhibit 1: Project Location and Site Map).

PROGRAM CATEGORY: Restoration of Significant Coastal Resource Areas

EXHIBITS

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

Exhibit 2: [Parcel Map](#)

Exhibit 3: [November 6, 2008 Staff Recommendation](#) (Exhibits intentionally not included; see Exhibits 1 and 2 above)

RESOLUTION AND FINDINGS:

Staff recommends that the State Coastal Conservancy adopt the following resolution pursuant to Sections 31350-31353 of the Public Resources Code:

“The State Coastal Conservancy hereby amends its November 6, 2008 authorization for acquisition of the Wild Cherry Canyon Property, attached as Exhibit 3 to the accompanying staff recommendation, to change the transfer date in condition number # 1(c) from December 31, 2025 to December 31, 2030. All other terms and conditions of the November 6, 2008 authorization remain in effect.”

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 this authorization remains consistent with the findings made by the

Conservancy in its November 6, 2008 authorization and with the Conservancy's updated Project Selection Criteria and Guidelines."

PROJECT SUMMARY:

The Wild Cherry Canyon Property lies between Avila Beach and Port San Luis in the Irish Hills area of western San Luis Obispo County, seven miles south of the Diablo Canyon Nuclear Power Plant (See Exhibit 1). Combined with other protected properties in the Irish Hills, purchase of the Wild Cherry Canyon Property by the State Department of Parks and Recreation (DPR) will lead to the expansion of the 8,000 acre Montana De Oro State Park and provide a critical link in a planned 20-mile segment of the California Coastal Trail.

The Wild Cherry Canyon Property is owned in fee by Eureka Energy, a subsidiary of Pacific Gas and Electric Company (collectively referred to as "PG&E") and is subject to a long term lease held by the San Luis Bay and Pacho Limited Partnerships, which also owns fee title to one parcel. The lease runs for another 58 years with an option to extend it for an additional 99 years at no additional cost. A recent appraisal approved by the Department of General Services confirmed that ownership of the lease represents all of the Property's current economic value.

Acquisition of the Property involves the purchase of the lease and the one fee parcel, all of San Luis Bay and Pacho Limited Partnerships' interests, by the American Land Conservancy (ALC). ALC plans to immediately transfer its acquired property interests to DPR. Thus, DPR will hold the leasehold interest (and the one fee parcel) for the remaining 157 years. The Property will be use-restricted for public access and recreation, open space, and habitat protection at the time of transfer to DPR. At the time of purchase by ALC, PG&E will record a Donation Agreement which provides for transfer of the fee title no later than December 31, 2030, at no additional cost to DPR or another public agency or nonprofit organization acceptable to the Conservancy's Executive Officer.

In order to ensure that PG&E has adequate time to complete relicensing of its nuclear power plant at Diablo Canyon, PG&E requested an extension of five more years for the transfer date of the fee interest in the Property to December 31, 2030 from the December 31, 2025 date previously authorized by the Coastal Conservancy. All other terms of the November 6, 2008 authorization would remain unchanged.

In consideration for the fee-title donation, PG&E will obtain the following property interests (see Map Exhibit 2):

1. An easement for emergency access to the Diablo Canyon Power Plant across the Property over the existing Wild Cherry Canyon Road.
2. An easement to use existing roads across the Property for access to the Marre homesite.
3. That portion of the Property used by PG&E for primary access to the Diablo Canyon Power Plant (the "Diablo Access Road Area") as well as all land to the south of that road.

4. That portion of the Property to be conveyed to the Port San Luis Harbor District (the “Port District”) to expand the Port District’s Harbor Terrace project (the “Port Area”).

If needed, an updated appraisal will be prepared to evaluate any additional reductions in value stemming from the property interests to be provided to PG&E. The fair market value of the current leasehold was reappraised in January 2010 and reduced the value to \$21.4 million from the previous appraised value of \$24 million. See the Project Financing section, below.

Site Description: See Exhibit 3 (November 6, 2008 Conservancy Authorization)

Project History: See Exhibit 3 (November 6, 2008 Conservancy Authorization)

PROJECT FINANCING:

Coastal Conservancy (previously authorized)	\$5,000,000
Department of Parks & Recreation	6,900,000
Wildlife Conservation Board	6,735,000
California Transportation Commission	965,000
Regional Water Quality Control Board	950,000
County of San Luis Obispo	850,000
Hind Foundation	150,000
Private Donors	<u>44,000</u>
TOTAL:	\$21,594,000

The project funding remains consistent with the Conservancy’s November 6, 2008 authorization. (See Exhibit 3).

CONSISTENCY WITH CONSERVANCY’S ENABLING LEGISLATION:

The proposed project remains consistent, for the reasons described in this section in the Conservancy’s November 6, 2008 authorization (Exhibit 3).

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

The proposed project remains consistent, for the reasons described in this section in the Conservancy’s November 6, 2008 authorization (Exhibit 3).

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

The proposed project remains consistent, for the reasons described in this section in the Conservancy's November 6, 2008 authorization (Exhibit 3). The proposed project is also consistent with the updated project selection criterion:

7. **Sea level rise vulnerability:** Consistent with Executive Order S-13-08, for new projects located in areas vulnerable to future sea level rise, planning shall consider a range of sea level rise scenarios for the years 2050 and 2100 in order to assess project vulnerability and, to the extent feasible, reduce expected risks and increase resiliency to sea level rise.

CONSISTENCY WITH LOCAL COASTAL PROGRAM POLICIES:

The proposed project remains consistent, for the reasons described in this section in the Conservancy's November 6, 2008 authorization (Exhibit 3).

COMPLIANCE WITH CEQA:

The proposed action is not a project as defined under the California Environmental Quality Act (CEQA) pursuant to California Code of Regulations Section 15378, as the change of the date of the transfer of the fee interest to the Department of Parks and Recreation does not have the potential for resulting in a direct physical change in the environment. The "project" as defined under CEQA, which is the acquisition of the Wild Cherry Canyon Property, was analyzed under and exempted from CEQA in the Conservancy's November 6, 2008 authorization; the Wild Cherry Canyon Property acquisition project remains consistent with the project described in that November 6, 2008 authorization. Conservancy staff filed a Notice of Exemption for the project following the Conservancy's approval of the previous authorization on November 6, 2008.