

COASTAL CONSERVANCY

Staff Recommendation
October 18, 2012

PACIFIC CUSTOM MATERIALS ACQUISITION

Project No. 12-021-01
Project Manager: Melanie Denninger

RECOMMENDED ACTION: Authorization to disburse up to \$500,000 to the East Bay Regional Park District for acquisition of up to 51 acres of the 148-acre Pacific Custom Materials Property in order to expand and improve the Carquinez Strait Regional Shoreline.

LOCATION: Unincorporated Contra Costa County between Martinez and Port Costa (Exhibit 1)

PROGRAM CATEGORY: San Francisco Bay Area Conservancy Program

EXHIBITS

- Exhibit 1: [Project Location](#)
 - Exhibit 2: [Aerial Photograph](#)
 - Exhibit 3: [Additional Site Photographs](#)
 - Exhibit 4: [Project Letters](#)
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RESOLUTION AND FINDINGS:

Staff recommends that the State Coastal Conservancy adopt the following resolution pursuant to Sections 31160-31165 of the Public Resources Code:

“The State Coastal Conservancy hereby authorizes disbursement of up to \$500,000 (five hundred thousand dollars) to the East Bay Regional Park District (the District) to acquire up to 51 acres of the Pacific Custom Materials property (the property), consisting of all or a portion of Contra Costa Assessor’s Parcel Nos. 368-100-001, 368-090-004, and 368-090-006, subject to the following conditions:

1. The District shall dedicate the property for the purposes of natural resource protection, open space preservation and public access by an appropriate instrument approved by the Executive Officer.
 2. The District shall pay no more than fair market value for the property, as established in an appraisal approved by the Conservancy’s Executive Officer.
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PACIFIC CUSTOM MATERIALS ACQUISITION

3. Prior to disbursement of the Conservancy funds for the acquisition of the property:
 - a. District shall submit for the review and approval of the Executive Officer:
 - i. All relevant acquisition documents, including but not limited to the appraisal, environmental assessments, escrow instructions, title reports, and documents of title necessary for the purchase of the property.
 - ii. A plan showing the design and placement of sign(s) acknowledging Conservancy funding.
 - iii. Evidence that the District has obtained all funds necessary to complete the acquisition.
 - b. With respect to contamination on the property, the San Francisco Bay Regional Water Quality Control Board, or other appropriate lead agency for site remediation, shall have indicated in writing, through a “closure letter” or similar documentation, that the property has been remediated to or meets standards adequate to at least allow for the “highest and best use” as established by the approved appraisal, and appropriate for the intended use of the property.
 - c. With respect to contamination on an adjacent property resulting in migration of contamination onto the acquisition property, the District has submitted documentation that assures that the owner of adjacent property is required by order of the appropriate regulatory body to monitor and remove any contamination on the acquisition property.
4. The District shall identify public access opportunities on the property through a planning process to be undertaken within a reasonable time following acquisition of the property.
5. Prior to opening the property for public use, the District shall acknowledge Conservancy funding, by erecting and maintaining signs on the property, consistent with the sign plan 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 current Project Selection Criteria and Guidelines.
2. The proposed authorization is consistent with the purposes and objectives of the San Francisco Bay Area Conservancy Program, Chapter 4.5 of Division 21 of the Public Resources Code, Sections 31160-31165.”

PROJECT SUMMARY: Staff recommends authorization to disburse up to \$500,000 to the East Bay Regional Park District (the District) toward the acquisition of up to 51 acres of the 148-acre Pacific Custom Materials (PCM) property for expansion and improvement of the District’s

PACIFIC CUSTOM MATERIALS ACQUISITION

Carquinez Strait Regional Shoreline in unincorporated Contra Costa County between Martinez and Port Costa (Exhibits 1 and 2). The District fully funded and acquired the first 97 acres of the 148-acre property in June 2012.

Acquisition of the 51-acre portion of the PCM property (the property) is a priority for Conservancy assistance because it will preserve open space and wildlife habitat and will provide the opportunity to develop public access facilities and, unlike the 97 acres acquired first by the District, can provide a base for improved management of other nearby District holdings on this scenic and somewhat remote part of the Carquinez shoreline. The property also has great potential as a campground, as well as for locating a segment of the Bay Trail off of the narrow Carquinez Scenic Drive, providing a landing site and destination for the Bay Area Water Trail, and interpreting the rich history of the site and its environs. (See also “Consistency with Conservancy’s Strategic Plan Goals(s) & Objectives(s)” and “Property Description” below.)

The District fully funded the \$2,140,000-cost of acquiring the initial 97 acres, drawing upon its Measures AA and WW funds. It holds an option to acquire the remaining 51 acres for \$2,000,000. The District proposes to fund the 51-acre portion of the acquisition with \$835,000 from Measure WW, \$665,000 from the State Lands Commission (the Commission), and the \$500,000 requested from the Conservancy. Under that scenario, the Conservancy’s contribution would assist with acquisition of 51 acres of the property. Alternatively, the Commission may purchase the 7-acre portion of the property that is outboard of the railroad tracks and lease it back to the District or for other reasons the District may separately fund the acquisition of this portion of the property. Under this second scenario, the Conservancy’s contribution would still assist with acquisition of 51 acres, as the option, purchase and sale agreement stipulates that the entirety of the 51 acres needs to be purchased at once, but the Conservancy’s funding would be attributed to only the 44 acres remaining after the Commission acquires 7 acres. Under both scenarios, the purchase price does not exceed fair market value according the August 2012 update to the District’s February 2010 appraisal. If the Commission does not participate at all in the acquisition, the District will fill the shortfall with its own funds.

The District was founded in 1934 and manages over 108,000 acres in 65 parks. Its mission to provide a diversified system of regional parks and trails while providing environmental stewardship of natural resources makes it an appropriate grantee for San Francisco Bay Area Conservancy Program funds. The Conservancy has collaborated with the District on numerous acquisition, restoration, and public access and recreation projects in Alameda and Contra Costa Counties.

Site Description: The PCM property occupies a small, steep valley rising from the Carquinez Strait between Port Costa and Martinez. It lies between two larger Carquinez Strait Regional Shoreline properties already owned and managed by the District and is traversed by the partially completed San Francisco Bay Trail Martinez Intermodal to Crockett Project (Bay Trail Intermodal Project) on Carquinez Scenic Drive, which will reduce the commute distance for bicyclists between Martinez and Crockett by seven miles and connect to the intermodal public/private transit station being built in Martinez. (The aerial photograph attached as Exhibit 2 and the other photographs attached as Exhibit 4 provide views of the property.)

The 97 acres acquired by the District extends inland from Carquinez Scenic Drive. A previous owner operated it as a quarry, but PCM has graded and replanted it with native vegetation. The 51 acres that is the subject of this staff recommendation is located on the water side of Carquinez Scenic Drive and was once used to make bricks and process rock for use in concrete. Pilings just

PACIFIC CUSTOM MATERIALS ACQUISITION

offshore are relics of the days when barges picked up rock and bricks for distribution around the Bay. The southern portion of the property is undeveloped and densely vegetated with willows, native oak woodlands and coastal sage scrub. Wildlife associated with these plant communities on the Carquinez shoreline include the western meadowlark, horned lark, house finch, western bluebird, American goldfinch, red-tailed hawk, American kestrel, golden eagle, northern harrier, great horned owl, barn owl, Cooper's hawk, gray fox, mule deer, raccoon, Botta's pocket gopher, gopher snake, sharp-tailed snake, and western garter snake. The northern part of the property has a low shoreline shelf, uncommon on this stretch of the Strait, which may be suitable as a landing for non-motorized boats. Just inland of the shelf is the Union Pacific railroad track. The railroad, which is used by Amtrak and freight trains, will be an attractive feature for some park visitors and will also pose management and safety challenges for the District. From the railroad, the property rises more steeply to Carquinez Scenic Drive and bears the scars of quarrying and brickmaking, extensive paving, and several small buildings in good repair. Piles of light-weight rock quarried onsite also remain and will be used by the District to repair the portion of Carquinez Scenic Drive that it now owns or for other purposes. It is this formerly industrial portion of the property that has potential for tent and recreational vehicle camping and for use by the District as a base for operation and management of the Carquinez Shoreline Regional Park. A greater District presence is expected to reduce the vandalism and dumping that this somewhat isolated part of the Park has experienced.

Public vehicular access to the PCM property is from the north, along the narrow and winding Carquinez Scenic Drive. Just south of the property, a 1.7-mile section of the road is closed and is now owned by the District, which is preparing to renovate it as part of the Bay Trail Intermodal Project. Construction is expected to begin next spring. After its acquisition of the PCM property is completed early next winter, the District intends to design a proposed alignment for the Bay Trail Intermodal Project past the property toward the north.

As part of its due diligence, and in light of the previous industrial use of the property, the District commissioned Phase I and Phase II environmental site investigations of the 51-acre portion of the property. Testing of the soil and groundwater revealed low-levels of residual degraded petroleum contamination from the location where underground storage tanks had been removed. The San Francisco Regional Water Quality Control Board (RWQCB) requested additional testing to rule out any migration of the contamination downhill towards the Carquinez Strait. That additional testing is complete and, based on that testing, RWQCB has concluded that there has been no migration. Upon resolution of a second issue, discussed in the next paragraph, it is expected that RWQCB will issue a "closure letter" or other similar documentation indicating that no further remediation is required.

RWQCB and the District have identified a second issue on the property. There is an existing, hand-dug well on the property which was never properly closed under permit. RWQCB has required the property owner to undertake the necessary steps to proper abandonment of the well.

The District has indicated that it will not acquire the site unless and until RWQCB (or another lead regulatory agency) has confirmed that no further action is required with respect to the underground storage tank contamination and that the existing well has been properly abandoned. This has also been imposed as a condition to Conservancy funding of the acquisition under the proposed resolution approving this project.

Finally, an underground plume of degraded petroleum is migrating through the groundwater to and across the extreme northwestern end of the property from an adjacent small property that

PACIFIC CUSTOM MATERIALS ACQUISITION

formerly housed a petroleum tank site and is now owned by ConocoPhillips. In compliance with an order from RWQCB addressing this contamination, ConocoPhillips, as the successor owner of the adjacent property, operates monitoring wells to on the acquisition property inboard of the railroad on the northwest end of the property. It also operates extraction wells, located on the railroad property that bisects the acquisition property, to intercept and treat the contaminated groundwater before it reaches Carquinez Strait. Under the terms of the RWQCB order, ConocoPhillips is required to continue to monitor, intercept and treat contaminated groundwater that migrates across the acquisition property. The District believes that the existing RWQCB investigation and order adequately protects it from any potential liability for future remediation related to contamination originating from the adjacent property. Furthermore, as this plume is at the northeastern edge of the property and is underground, its presence does not significantly limit the uses of the property envisioned by the Park District or the purposes of the proposed Conservancy grant.

Project History: The District has so far assembled 1,415 acres for its Carquinez Strait Regional Shoreline. In order to close a gap in the lands that it manages and to have the potential for opening a campground, it has been trying to acquire the PCM property (formerly known as Port Costa Materials) since 1992, shortly after the brick-making operation shut down, but negotiations were unsuccessful. In 2009, the District’s negotiations became more fruitful. Following title investigation, appraisal, and initial environmental assessment, the District was able to sign an option, purchase and sale agreement in late 2011 for acquisition of the entire property for \$4,140,000. (See additional information about funding in the “Project Financing” section below.) Just after the District signed the option and purchase and sale agreement, it approached Conservancy staff about the potential for contributing to the acquisition.

PROJECT FINANCING

Acquisition of first 97 acres completed in June 2012

East Bay Regional Park District	\$2,140,000
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Proposed acquisition of remaining 51 acres

Coastal Conservancy	500,000
East Bay Regional Park District (budgeted)	835,000
State Lands Commission (pending)	665,000
(or, alternatively, East Bay Regional Park District)	_____

<i>Subtotal for 51 acres</i>	\$2,000,000
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Total Project Cost	\$4,140,000
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The District used \$2,140,000 of its regional park Measure AA and WW funds to acquire the first 97 acres of the 148-acre PCM property. The District proposes to acquire the remaining 51 acres for \$2,000,000, with \$835,000 from Measure WW, \$665,000 from the State Lands Commission (the Commission) and \$500,000 from the Conservancy. Alternatively, the Commission may make a direct purchase of the shoreline portion of the property and lease it back to the District. If the Commission does not participate, the District is prepared to make up the shortfall from its own funds.

PACIFIC CUSTOM MATERIALS ACQUISITION

The anticipated source of Conservancy funds is an appropriation from the “Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006” (Proposition 84). This funding source may be used for the for protection of coastal waters and watersheds, including projects to protect and restore the natural habitat values of coastal waters and lands, and to promote access to and enjoyment of the coastal resources of the state pursuant to the Conservancy’s enabling legislation, Division 21 of the Public Resources Code. The proposed project will serve to preserve the natural habitat values of land draining to San Francisco Bay, by preventing industrial or other major development, and will enable the District to improve public access opportunities and facilities within the Carquinez Strait watershed. In addition, as discussed below in “Consistency with Conservancy’s Enabling Legislation,” the project is consistent with Chapter 4.5 of Division 21.

Proposition 84 also requires that, for acquisition projects that protect natural resources, the Conservancy assess whether the project meets at least one of the criteria specified in Section 75071 of the Public Resources Code. The proposed acquisition satisfies three of the five specified criteria:

1. The property contributes to linking existing protected areas with other large blocks of protected habitat. The linkage serves to connect existing protected areas, facilitate wildlife movement and botanical transfer, and results in sustainable combined acreage within the Carquinez Strait Regional Shoreline and between the waters of the Carquinez Strait and upland habitat.
2. The project will contribute to long-term protection of and improvement to the water draining from the property to the Carquinez Strait
3. The project is supported by matching funds, with Conservancy funds leveraged 3:1 for the acquisition of the 51-acre portion of the PCM property and by over 8:1 for the entire 148-acre property.

As required by Section 75701, Conservancy staff has submitted to the Resources Agency and posted on the Conservancy’s website an explanation as to how the proposed acquisition meets the criteria of this section.

CONSISTENCY WITH CONSERVANCY’S ENABLING LEGISLATION:

This project is undertaken pursuant to Chapter 4.5 of the conservancy’s enabling legislation, Public Resources Code Sections 31160-31165, to address resource goals in the San Francisco Bay Area. Consistent with Section 31162, the project is located in the nine-county San Francisco Bay Area and will help achieve goals of the San Francisco Bay Area Conservancy Program as described in the following three paragraphs.

Under Section 31162(a) the Conservancy is authorized to provide grant funding to improve public access to, within, and around the bay, coast, ridgetops, and urban open spaces through the establishment of connecting trail systems and related facilities. The proposed project will serve to acquire land that will be used for public access opportunities and for the development of public access-related facilities needed to serve and maintain that use.

PACIFIC CUSTOM MATERIALS ACQUISITION

Under Section 31162(b), the Conservancy may award grants to "...protect...natural habitats and connecting corridors, watershed, scenic areas, and other open-space resources of regional importance." Consistent with this section, the project will result in placing the property--with its stunning views and access to the shoreline, oak and bay woodlands, coastal sage scrub, shoreline willows, and associated wildlife--under the permanent and capable stewardship of the District and by improving habitat corridors by largely filling a gap between existing units of the Carquinez Strait Regional Shoreline.

Under Section 31162(c), the Conservancy may award grants to "...assist in the implementation of the policies and programs of ...the San Francisco Bay Plan..." The Bay Plan's Map 2 of the Carquinez Strait states the following Bay Plan Policy with respect to the Carquinez Strait Regional Shoreline: "Preserve...panoramic views of Carquinez Strait from hiking trails.... Expand park where feasible." Consistent with this Bay Plan Policy, the project will preserve panoramic views of the Carquinez Strait from the Bay Trail along Carquinez Scenic Drive and from the property itself. The project will also result in the public being able to enjoy water-level views from the unusual shelf along the central shoreline portion of the property. Finally, the project will expand the Carquinez Strait Regional Shoreline.

Under Section 31162(d), the Conservancy may award grants to "...assist...projects that provide open space and natural areas that are accessible to urban populations for recreational...purposes." Consistent with this section, the project will increase the open space and natural areas accessible to residents of the Bay Area by train or bus via the Martinez Intermodal station near Interstate 680 and the closed County road that is being renovated as part of the Bay Trail by the District, or by private vehicles approaching from the north.

The proposed project also satisfies each of the five criteria for determining project priority under Section 31163(c) in the following respects: (1) the acquisition is consistent with the District's 2007 Master Plan and the open space elements of the Contra Costa County General Plan; (2) it will serve a regional constituency as part of the District's park system, which attracts visitors from the entire Bay Area; (3) the District and the seller are ready to complete the transaction; (4) not purchasing this property would likely result in redevelopment of the property; and (5) the proposal includes matching funds from other sources as described in the "Project Financing" section above.

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

Consistent with **Goal 10, Objective D** of the Conservancy's 2007 Strategic Plan, the proposed project will protect 51 acres of uplands habitat, with connecting corridors, scenic areas, and other open space resources of regional significance.

Consistent with **Goal 11, Objective C** of the Conservancy's 2007 Strategic Plan, the proposed project will increase lands accessible to the public by adding 51 acres to the Carquinez Shoreline Regional Park.

**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 November 10, 2011, 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:** Evidence of support for the project is provided by the ten letters included in Exhibit 5.
4. **Location:** The property is located in Contra Costa County, one of the nine Bay Area Counties and, thus and is within the jurisdiction of the San Francisco Bay Area Conservancy Program.
5. **Need:** The District does not have sufficient funds to complete the acquisition. If the District is not able to protect the remaining portion of the property, it will not be able to improve habitat connectivity along this part of the Regional Shoreline, improve its management of this isolated area, or prevent blockage of scenic views from the Bay Trail. In addition, the potential uniquely afforded by this property for opening a campground and providing a landing and destination for the Water Trail would be lost.
6. **Greater-than-local interest:** The District's regional parks serve a regional constituency and draw visitors from all over the Bay Area.
7. **Sea level rise vulnerability:** The majority of the property rises steeply from the Carquinez Strait and is not vulnerable to rising sea level. However, the property does have a shoreline frontage some 2,000 feet long. This area is subject to the effects of sea level rise, along with increased wave erosion, storm surge and salinity encroachment. Most of this shoreline is relatively steep bluff that has some armoring of rock and other debris. While these rocky areas will be subject to increased erosion, these effects can be counteracted by periodic removal of large floating debris and installation of stabilizing rock, native plantings and other erosion control methods. A roughly 1-acre shelf toward the northwestern end of the shoreline lies near current sea-level. This area will be the most vulnerable to inundation.

Two drainages from the upper watershed discharge into the Strait. The northernmost drainage discharges via a culvert under the Union Pacific Railroad tracks. This culvert may be subject to periodic inundation and upstream intrusion of saline water. Due to the steep topography of this area, there will be only a minor impact on the drainage. The southernmost drainage contains a strip of willows along the shoreline that provide some erosion protection. With anticipated salinity encroachment of the Strait, these willows may eventually die, leaving this area vulnerable to erosion and inundation absent protective measures.

The District will plan for rising sea level in consultation BCDC and with the Union Pacific Railroad, whose right-of-way hugs the shoreline.

Additional Criteria

8. **Urgency:** The District's option, purchase and sale agreement with PCM requires the District to close escrow on the subject property by December 1, 2012.
10. **Leverage:** See the "Project Financing" section above.
13. **Readiness:** The District has all of the project elements in place to enable closing escrow by December 1, 2012, in accordance with the terms of the purchase and sale agreement.
16. **Cooperation:** The project proposes joint funding by the District, the Commission and the Conservancy. The project is also closely related to extension of the Bay Trail. Planning and construction of the adjacent Bay Trail are being undertaken jointly by the District and the Association of Bay Area Government's Bay Trail Project, with additional participation by the Metropolitan Transportation Commission because of the trail's Martinez to Crockett intermodal function.
18. **Vulnerability from climate change impacts other than sea level rise:** With climate change, the period of precipitation is anticipated to become shorter and summer drought periods longer and warmer. Some areas may be subjected to more intense short-duration storms resulting in flashy flows from the upper watershed into the Strait. Two drainages run through the property, crossing under Carquinez Strait Scenic Drive and into the Strait. Culverts and bridges in the area may require more frequent maintenance to remove accumulated sediment and debris to prevent overtopping or flooding of adjacent areas. The reclaimed quarry has been contoured and vegetated to reduce erosion and slow runoff. A storm water detention basin is located at the base of the reclaimed area. This facility is designed to capture suspended sediments in storm flows so that they are not discharged into the Strait. No structures are located in flood-prone areas.

Plant communities in coastal California are well-adapted to fluctuations in climate patterns and can withstand wetter and dryer periods. With hotter and dryer periods, some riparian areas may lose water-loving trees, such as willows, but these would be replaced by more drought-adapted trees like coast live oak. Grasslands on the property are the most tolerant of drought conditions and are anticipated to increase in some areas that are less adaptable to higher temperatures and longer drought periods. This may result in an increase in fuels for wildfire; however, grasslands will be managed by livestock grazing to reduce fuel loads and greatly reduce the risk of catastrophic wildfire.

CONSISTENCY WITH SAN FRANCISCO BAY PLAN:

See "Consistency with Conservancy's Enabling Legislation" above.

PACIFIC CUSTOM MATERIALS ACQUISITION

COMPLIANCE WITH CEQA:

As a transfer of ownership of interest in land to preserve open space and habitat, including acquisition for the preservation and restoration of natural conditions and for preservation of open space or land for future park purposes, the proposed project is categorically exempt from the California Environmental Quality Act (CEQA) under the CEQA Guidelines, 14 Cal. Code of Regulations Section 15325. Upon approval, staff will file a Notice of Exemption for this project.