

COASTAL CONSERVANCY

Staff Recommendation

February 3, 2006

SOUTH BAY SALT POND RESTORATION PLANNING

File No. 02-070

Project Manager: Brenda Buxton

RECOMMENDED ACTION: Authorization to disburse 1) up to \$4,651,200 to be reimbursed by the Santa Clara Valley Water District pursuant to a Memorandum of Agreement regarding work undertaken for the South San Francisco Bay Shoreline Study and the South Bay Salt Pond Restoration project, and 2) up to \$146,000 of previously authorized Conservancy funds and \$104,000 of the funds to be reimbursed by the Santa Clara Valley Water District to the San Francisco Estuary Institute to undertake work associated with the South San Francisco Bay Shoreline Study.

LOCATION: San Francisco Bay, south of the San Mateo Bridge, in Alameda, Santa Clara, and San Mateo Counties

PROGRAM CATEGORY: San Francisco Bay Area Conservancy

EXHIBITS

Exhibit 1: Project Location and Site Map

Exhibit 2: Letters of Support

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 authorizes the disbursement of up to \$4,651,200 for the South San Francisco Bay Shoreline Study, undertaken in conjunction with the US Army Corps of Engineers and the Santa Clara Valley Water District, and for the South Bay Salt Pond Restoration planning, pursuant to a Memorandum of Agreement providing for reimbursement of these funds to the Conservancy by the Santa Clara Valley Water District.

The State Coastal Conservancy hereby further authorizes the disbursement of up to \$250,000 to the San Francisco Estuary Institute for technical studies related to mercury contamination in the South Bay, including \$146,000 from Conservancy funds authorized on September 8, 2005 for the South San Francisco Bay Shoreline Study, and \$104,000 from the Santa Clara Valley Water District.”

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 authorization is consistent with Public Resources Code Sections 31160 *et seq.*, regarding the Conservancy’s mandate to address the resource goals of San Francisco Bay Area.
 2. The project is consistent with the Project Selection Criteria and Guidelines adopted by the Conservancy on January 24, 2001.
 3. SFEI is a nonprofit organization existing under the provisions the U.S. Internal Revenue Code Section 501(c)(3), whose purposes are consistent with Division 21 of the Public Resources Code.”
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PROJECT SUMMARY:

On December 2, 2004, the Conservancy authorized entering into a federal cost-share agreement with the US Army Corps of Engineers (Corps) for the South San Francisco Bay Shoreline Study (the “Shoreline Study”) because it would facilitate the South Bay Salt Pond restoration project by completing the required analysis for the Corps to cost-share in the implementation of future projects identified in the South Bay Salt Pond Restoration Plan. This authorization would allow the Conservancy to disburse 1) \$4,007,700 for technical studies and other work undertaken as part of the Shoreline Study, and 2) \$643,500 for design and engineering work undertaken as part of the South Bay Salt Pond Restoration planning, pursuant to a Memorandum of Agreement (MOA) providing for reimbursement of these funds by the Santa Clara Valley Water District.

As discussed in the December 2, 2004 and in the September 9, 2005 staff recommendations, the Conservancy and the Santa Clara Valley Water District (SCVWD) are the local sponsors for the Shoreline Study. The Conservancy will provide \$1 million of its own funds for the local sponsor share (authorized September 9, 2005) and the SCVWD will provide the remaining \$4,007,700 of funding needed for technical consultants and others to complete the local sponsor portion of the Shoreline Study. To insure consistency with the South Bay Salt Pond Restoration planning effort, the Conservancy has agreed to be the contracting lead for technical consultants for the local sponsor portion of the Shoreline Study. The Conservancy and the SCVWD have entered into a MOA providing that the SCVWD will reimburse the Conservancy for the expenditure of \$4,007,700 for the Shoreline Study. This MOA with the Santa Clara Valley Water District also provides an additional \$643,500 for design and engineering work undertaken as part of the South Bay Salt Pond Plan. This recommended authorization would enable the Conservancy to contract for services at no cost to the Conservancy beyond the Conservancy’s \$1 million contribution towards the Shoreline Study.

Grant to San Francisco Estuary Institute

Staff recommends that the Conservancy provide a grant to the San Francisco Estuary Institute for an amount not to exceed \$250,000 to contribute to the Institute’s study of mercury in South San Francisco Bay. \$146,000 of these funds will come from the \$1 million previously authorized as the Conservancy’s share of the Shoreline Study. The remaining funds, \$104,000, will be

reimbursed by the SCVWD pursuant to the MOA. The study is part of SFEI's investigations of San Francisco Bay's ecosystems and also an important element of the South Bay Salt Pond Restoration Project that the Conservancy is undertaking in cooperation with the U.S. Fish and Wildlife Service (FWS), the California Dept. of Fish and Game (DFG), the Santa Clara Valley Water District (SCVWD) and others. Mercury is also one of the key uncertainties that has been identified for the Shoreline Study since the degree of risk posed by mercury to wildlife and human health in this area of the Bay needs further investigation.

The study consists of an investigation on the bioavailability of mercury in the South Bay Salt Ponds and adjacent sloughs to determine the degree of threat to wildlife and human health both under existing conditions and as environmental conditions change subsequent to habitat restoration as part of the South Bay Salt Pond Restoration Project. The study is a combined effort of the San Francisco Estuary Institute, the U.S. Geological Survey, and the Santa Clara Valley Water District (SCVWD).

The San Francisco Estuary Institute is well qualified to conduct the study in cooperation with the other partners based on their experience as manager of the Regional Monitoring Program for Trace Contaminants and their extensive experience in mercury investigations in the Bay and Delta. As part of its mission, SFEI conducts science studies, synthesizes data and information, and collaborates with other scientists to provide a holistic integration of information from many disciplines that supports environmental management decision-making.

Site Description and Project History: The entire South Bay salt pond complex is spread over an area of approximately 26,000 acres. Salt ponds surround nearly the entire Bay south of the San Mateo Bridge (Exhibit 1), on lands that were formerly tidal marsh. An estimated 85 percent of the historic tidal marshes in the San Francisco Bay-Delta Estuary have been filled or significantly altered over the past two centuries for urban development, agriculture, and salt production. Although dramatically different than 150 years ago, the South Bay's wetland habitats, including the salt ponds, tidal marshes, sloughs, mudflats, and open bay, are used by large populations of waterfowl and shorebirds, by harbor seals, and by a number of threatened and endangered species, including the California clapper rail, California black rail, California brown pelican, California least tern, western snowy plover, salt marsh harvest mouse, and steelhead trout.

Negotiations headed by Senator Dianne Feinstein led to the signing of a framework agreement in May 2002 for public acquisition of 15,100 acres of these South Bay salt ponds, along with 1,400 acres of crystallizer ponds along the Napa River. In March 2003, the Salt Ponds were acquired with \$72 million from the WCB, \$8 million from FWS, and \$20 million from the Goldman Fund, Hewlett Foundation, Moore Foundation, and Packard Foundation.

FWS and DFG have taken ownership of the properties and are actively managing the ponds according to the management goals set forth in the Initial Stewardship Plan. Cargill continues to manage a small number of ponds while phasing out its salt-making operations.

While the ponds are being managed under the Initial Stewardship Plan, the Conservancy, FWS, and DFG are charged with developing a long-term restoration plan. One of the key uncertainties that has been identified for the Restoration Project is the degree of risk posed by mercury to wildlife and human health in this area of the Bay. Historic mercury mining in the South Bay area resulted in significant loads of mercury being deposited in the South Bay. The mines

primarily existed in the Guadalupe River watershed which drains through the project area. This study has been developed collaboratively among the project partners to address the mercury issue.

PROJECT FINANCING:

This study will be carried out collaboratively with funding from the sources shown below.

Coastal Conservancy	\$146,000
San Francisco Foundation	40,000
Regional Monitoring Program	25,000
SCVWD	<u>104,000</u>
Total Project Cost	\$315,000

In September 2005 the Conservancy authorized funding for work associated with the SBSP project from the Conservancy's FY 03-04 budget appropriation for the San Francisco Bay Area Conservancy Program from the Water Security, Clean Drinking Water, Coastal and Beach Protection Fund of 2002 (Proposition 50) which can be used for coastal watershed protection and associated planning pursuant to Chapter 4.5 of Division 21 of the Public Resources Code. The grant would use \$146,000 of the \$1 million authorized for the Shoreline Study. In addition to \$104,000, the Santa Clara Valley Water District is providing extensive in-kind staff time towards this study. The US Fish and Wildlife Service will also contribute cash towards this study. The other funders are providing funds directly to SFEI or other study partners.

This authorization would also enable the Conservancy to contract for studies and technical services related to the Shoreline Study and the South Bay Salt Pond project, using the SCVWD funds in addition to the balance of Conservancy funds authorized for this purpose in September 2005.

CONSISTENCY WITH CONSERVANCY'S ENABLING LEGISLATION:

The project conducted under this authorization would be undertaken pursuant to Chapter 4.5 of the Conservancy's enabling legislation, Public Resources Code Sections 31160-31163, to address resource goals in the San Francisco Bay Area.

The project would be undertaken in South San Francisco Bay, within the nine-county Bay Area as described in Section 31162 of the Public Resources Code. Section 31162 authorizes the Conservancy to undertake projects and award grants in the nine-county San Francisco Bay Area that will help to achieve specified goals including the restoration and enhancement of natural habitats and open space resources of regional importance (Section 31162(b)) and implementation of the San Francisco Bay Plan (Section 31162(c)).

On September 8, 2005, the Conservancy authorized the disbursement of \$3 million for technical studies, planning data collection and other work associated with the South Bay Salt Pond Restoration Planning effort, consistent with the goals, purposes, and criteria of Chapter 4.5 of Division 21.

This grant would utilize a portion of the total funds authorized to further these efforts, and would specifically implement Sections 31163(b) and (c), directing the Conservancy to participate in and

support interagency actions and public/private partnerships in the San Francisco Bay Area to implement long-term resources goals.

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

Consistent with **Goal 10 Objective B** of the Conservancy's Strategic Plan, the proposed Salt Pond project would help the Conservancy develop plans for approximately 15,000 acres of wetlands in the Bay.

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:** See the "Project Financing" section above.
3. **Support of the public:** The Salt Pond project is supported by Senator Dianne Feinstein, the Richard and Rhoda Goldman Fund, the William and Flora Hewlett Foundation, the Gordon E. and Betty I. Moore Foundation, the David and Lucile Packard Foundation, Resources Legacy Fund, the California Resources Agency, California Department of Fish and Game, U.S. Fish and Wildlife Service, Santa Clara Valley Water District, Alameda County Flood Control District, the San Francisco Bay Joint Venture, Save The Bay, The Bay Institute, National Audubon Society, Citizen's Committee to Complete the Refuge, Cargill, and many other agencies, organizations, and individuals.
4. **Location:** The project would be undertaken in South San Francisco Bay. In Section 31161 of the Public Resources Code, the legislature found and declared that San Francisco Bay is the central feature in an interconnected open-space system of watersheds, natural habitats, waterways, scenic areas, agricultural lands, and regional trails.
5. **Need:** Approximately 85 percent of the tidal marsh in San Francisco Bay has been lost since the Gold Rush, leading to dramatic losses of fish and wildlife, decreased water quality and increased turbidity in the Bay, and changes to physical processes as the size of the Estuary shrank, increasing the need for dredging and the local hazards of flooding. The need for restoration of tidal marsh in San Francisco Bay in order to aid in the recovery of at-risk species, and improve water quality and the physical health of the Bay, is well recognized among scientists and resource managers. The mercury study is necessary to ensure that the restoration can proceed without adverse consequences as a result of mercury contamination in the project area.
6. **Greater-than-local interest:** Restoration of this area is of national significance and will result in the largest tidal wetland restoration project on the west coast of the United States.

When combined with other restoration projects underway in San Francisco Bay, including Napa-Sonoma Marsh, Hamilton/Bel Marin Keys, Bair Island, Eden Landing, and Sonoma Baylands, the project is on scale with other national restoration efforts, such as the Everglades and Chesapeake Bay. Restoration of the South Bay salt ponds to a mix of tidal marsh and managed ponds will provide benefits to a large number of species, including migratory waterfowl and shorebirds, and aid in the recovery of several threatened or endangered species, including the California clapper rail and salt marsh harvest mouse.

Additional Criteria

7. **Urgency:** The acquisition of the South Bay Salt Ponds closed in March of 2003 and there is a strong desire among the foundations, agencies, and by Senator Feinstein for restoration planning to be completed within five years of the date of acquisition.
8. **Resolution of more than one issue:** The restoration of the South Bay salt ponds will provide for habitat for fish and wildlife and improved water quality and flood control.
9. **Leverage:** See the “Project Financing” section above.
10. **Realization of prior Conservancy goals:** This project builds on the Conservancy’s participation in the development of the *San Francisco Baylands Habitat Goals Report*, which has goals, objectives, and recommendations for restoration in San Francisco, and the Conservancy’s participation in wetland acquisition and restoration projects in San Francisco Bay, including Napa Marsh, Bair Island, and Hamilton/Bel Marin Keys.
11. **Cooperation:** The Conservancy is facilitating the long-term restoration planning, working closely with DFG and FWS. The Conservancy, WCB, and private foundations are cooperatively funding the restoration planning. In addition, over 50 entities have been identified as stakeholders in this restoration project, including local, state, and federal agencies, nongovernmental organizations, special districts, utilities, and the general public. SFEI’s interest in studying and addressing mercury and other contaminant issues in the Bay is a critical component of this effort.

CONSISTENCY WITH SAN FRANCISCO BAY PLAN:

The South Bay salt ponds are within the permit jurisdiction of the San Francisco Bay Conservation and Development Commission (BCDC). The proposed project is considered project planning and exempt from permit requirements.

The project is consistent with the following policies of BCDC's San Francisco Bay Plan:

Part III: The Bay as a Resource

Water Quality

- To the greatest extent feasible, the Bay marshes, mudflats, and water surface area and volume should be maintained and, whenever possible, increased.

Water Surface Area and Volume

- Water circulation in the Bay should be maintained, and improved as much as possible.

Marshes and Mudflats

- To offset possible additional losses of marshes due to necessary filling and to augment the present marshes: (a) former marshes should be restored when possible through removal of existing dikes; (b) in areas selected on the basis of competent ecological

study, some new marshes should be created through carefully placed lifts of dredged spoils; and (c) the quality of existing marshes should be improved by appropriate measures whenever possible.

COMPLIANCE WITH CEQA:

In its funding authorization of September 8, 2005, the Conservancy determined that the use of these funds for planning, data collection, and other work associated with the restoration planning to be statutorily exempt from CEQA under 14 California Code of Regulations Section 15262 which exempts feasibility and planning activities. Similarly, 14 Cal. Code of Regulations Section 15306 exempts basic data collection, research, and resource-evaluation activities which do not result in a serious or major disturbance to an environmental resource. The use of a portion of these funds for the SFEI grant does not alter that conclusion.