

COASTAL CONSERVANCY

Staff Recommendation

October 23, 2003

**MONTANA DE ORO STATE PARK ACQUISITION**

File No. 03-129

Project Tim Duff

**RECOMMENDED ACTION:** Authorization to disburse up to \$1,250,000 to the State Department of Parks and Recreation towards its acquisition of a 42.2-acre property for addition to Montana de Oro State Park.

**LOCATION:** Morro Bay, San Luis Obispo County (Exhibit 1)

**PROGRAM CATEGORY:** Site Reservation

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**EXHIBITS**

Exhibit 1: Project Map

Exhibit 2: Property Location

Exhibit 3: Aerial Photograph

Exhibit 4: Letter from Coastal Commission

Exhibit 5: Letters of Support

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**RESOLUTION AND FINDINGS:**

Staff recommends that the State Coastal Conservancy adopt the following Resolution pursuant to Sections 31350 *et seq.* of the Public Resources Code:

“The State Coastal Conservancy hereby authorizes disbursement of an amount not to exceed one million two hundred fifty thousand dollars (\$1,250,000) to the State Department of Parks and Recreation (“DPR”) for the acquisition of the property (San Luis Obispo County Assessor Parcel Nos. 074-022-061 and -060) shown on Exhibit 2 of the accompanying staff recommendation as an addition to Montana de Oro State Park, subject to the following conditions:

1. Prior to disbursement of any funds for acquisition of the property, DPR shall submit for the review and approval of the Executive Officer of the Conservancy (“Executive Officer”) all relevant acquisition documents, including but not limited to the appraisal, agreement of purchase and sale, environmental assessments, escrow instructions, and documents of title.

2. DPR shall pay no more than fair market value for the property, as established in an appraisal approved by the Department of General Services.
3. DPR shall permanently dedicate the property for natural resource protection, open space preservation, and public access, by an appropriate instrument approved by the Executive Officer.
4. DPR shall prepare a management plan for the property pursuant to Fish and Game Code Section 2794.
5. Conservancy funding shall be acknowledged by erecting and maintaining a sign on the property, the design and location of which has been 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 acquisition is consistent with Chapters 8 and 9 of Division 21 of the Public Resources Code (Sections 31350 *et seq.*) regarding the reservation of significant coastal resource areas and public access.
2. The proposed project is consistent with the Project Selection Criteria and Guidelines adopted by the Conservancy on January 24, 2001.”

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#### **PROJECT SUMMARY:**

Acquisition of this 42.2-acre property has been a priority for the Conservancy and other state resource agencies for several years given 1) the property’s location adjacent to Montana de Oro State Park and proximity to the Morro Bay National Estuary, 2) its scenic, habitat, and public access values, and 3) the potential adverse impacts to all of these resources if the site were to be developed with a hotel as allowed under current zoning and land use guidelines.

The subject property is surrounded on three sides by undeveloped state-owned parkland and sensitive dune habitat, and is ideally situated for addition to the 7,823-acre Montana de Oro State Park (Exhibit 3). The site is highly visible from several vista points and turnouts located along Pecho Road, the only road entering the park. The area’s largely undeveloped viewshed, which includes vast open space views of the dunes and the Pacific Ocean to the west, and the Morro Bay National Estuary to the north and east, provides a spectacular gateway to the park, and would be permanently altered if a hotel were developed on the site. By instead acquiring and adding the property to the state park and eliminating all future development, these scenic views would be preserved, dune habitat for sensitive species would be fully protected and restored, and public access would be expanded.

For the past two years, the Conservancy has been working in coordination with the local non-profit Bay Foundation of Morro Bay on finalizing the terms of the acquisition with the landowner. With additional match funding expected from the Wildlife Conservation Board (WCB) and DPR, the property would be transferred to the state by the end of this fiscal year.

**Site Description:** Located less than a quarter-mile west of Pecho Road, the property consists of two parcels: a 41.2-acre parcel known as the “hotel site” and a nearby 1-acre parcel known as the

“well site” (Exhibits 2 and 3). A 20-foot-wide easement allows road access and water lines between the two parcels, and a recent groundwater study indicates favorable conditions for drilling and obtaining water capable of supporting a hotel development. The hotel site parcel gently slopes from 240 feet above sea level at its southeastern corner to roughly 80 feet above sea level at its northwesterly corner, resulting in an overall slope gradient of approximately 8.5 percent. Both parcels are vegetated by various grasses and dune scrub, and may be suitable habitat for Morro manzanita, a federally listed plant species of concern, and the Morro Bay kangaroo rat, a federally listed endangered species.

The site features excellent ocean and bay views and has direct access to the adjacent state park and beaches. Road access exists via two unpaved roads, one of which is a county-maintained road. Located adjacent to the property, Montana de Oro State Park features over seven miles of ocean frontage and nearly four miles of shoreline along the Morro Bay National Estuary. The 900 acres to the north and west of the site are identified as the Morro Dunes State Natural Reserve, which includes the Morro Bay sand spit. Bordering the site to the south is the 50-acre Morro Dunes Ecological Reserve, acquired by the WCB in 1978.

The property’s current zoning and planning area guidelines allow for a hotel, motel, or lodge development, a restaurant, and single family residential uses. The draft Local Coastal Plan (LCP) Estero Area Plan Update specifies a maximum of 100 lodging units, 20 of which could be operated as condominiums. Although the site has historically been zoned for visitor-serving uses, Coastal Commission staff is currently considering new restrictions that would reduce the size and/or intensity of land uses allowed on the hotel site in light of recent data on the project area’s sensitive dune habitat, including habitat for the Morro shoulderband dune snail, a federally listed endangered species. While a community-wide Habitat Conservation Plan (HCP) that includes the subject property is being prepared to establish necessary mitigation measures associated with development impacts to snail habitat, it is not expected to be completed until 2005 or 2006. An individual HCP could be prepared by the landowner, but these are strongly discouraged by the U.S. Fish and Wildlife Service and may cost up to \$50,000 to prepare and 18 months to complete. Commission staff supports DPR’s acquisition of this site for addition to the state park (Exhibit 5).

**Project History:** During World War II, the immediate area near the hotel site was located within the U.S. Army “Baywood Park Training Area” and was used for live-ammunition exercises. During the 1950s and later, several sweeps and clean up exercises were conducted to locate and remove shell fragments and unexploded ordnance or “UXO.” Additional UXO investigations were conducted from 1994 through 1998, including soil sampling on what is now state park land. Today, it is not known if any UXOs exist on the subject property, though the public has regularly used the site for decades for trail access and recreation purposes without incident. DPR intends to conduct environmental assessments prior to acquiring the property to assure that its current condition is suitable for future public use as a state park.

Acquisition of private lands in the project area has been a priority for the state for over four decades, beginning with the creation of Montana de Oro State Park in 1965. Since that time, the Conservancy and other state agencies have acquired an additional 630 acres of land immediately adjacent, or in close proximity, to the hotel site (Exhibit 3). Over the past 18 months the Conservancy has worked closely with DPR and WCB to secure the additional state funding needed to acquire the subject property.

**PROJECT FINANCING:**

Coastal Conservancy*	\$1,250,000
Wildlife Conservation Board	1,550,000
State Department of Parks and Recreation	<u>500,000</u>
<b>TOTAL</b>	<b>\$3,300,000</b>

\* Conservancy staff expects to utilize a combination of funding sources for the acquisition including the California Wildlife Protection Act of 1990 (Proposition 117), known as the Habitat Conservation Fund (HCF); the San Luis Obispo County Access Mitigation Fund; and the Violation Remediation Account (VRA) in the Coastal Conservancy Fund.

Under State Fish and Game Code Section 2786(b), HCF Funds may be used for the acquisition of habitat to protect rare, endangered, threatened, or fully protected species. Acquisition of the subject property will serve to protect sensitive dune habitat for the Morro shoulderband dune snail, a federally listed endangered species. DPR will prepare a management plan for the property as required by Fish and Game Code Section 2794 with respect to land acquired with these funds.

The San Luis Obispo County Access Mitigation Fund was established pursuant to conditions of a coastal development permit for the purpose of funding projects that would mitigate impacts to public access associated with installation of trans-Pacific fiber optic cable under a parking lot in Montana de Oro State Park. The Conservancy agreed to accept these funds in April of 2001, and established a Special Deposit Fund Account in the State Treasury to hold these funds for their intended purpose. Use of these funds towards the proposed acquisition is consistent with the purpose for which the fund was established and is supported by the County of San Luis Obispo (Exhibit 5).

The VRA was established by Public Resources Code Section 30823 to receive fines and penalties under the Coastal Act. The funds proposed for use in this project were obtained from the Coastal Commission through a negotiated settlement with another landowner in Santa Barbara County who agreed to contribute the funds towards the recently completed Sea West Ranch acquisition as mitigation for impacts to public access resulting from their development. However, because these VRA funds were not appropriated at the time the Sea West Ranch acquisition was to be completed, the Conservancy substituted its own Proposition 40 funds for the VRA funds in order to complete that acquisition (Exhibit 4). Sea West Ranch is now owned by DPR for public access and resource protection purposes, and these VRA funds have been appropriated and are now available to the Conservancy for the proposed acquisition.

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

The proposed project is consistent with Section 31350 of the Public Resources Code, which vests in the Conservancy authority to assure the reservation of significant coastal resource areas that would otherwise be lost to public use and enjoyment. DPR's acquisition of the subject property for addition to Montana de Oro State Park would prevent private development of the site and thereby assure its permanent protection for coastal resource protection and public access, two key objectives of Public Resources Code Division 21.

Section 31351(a) directs the Conservancy to cooperate with public agencies and nonprofit organizations to ensure the reservation of lands for park, recreation, and fish and wildlife habitat

required to meet the policies and objectives of Division 21 and/or the Coastal Act. Cooperating with DPR, WCB, and the nonprofit Bay Foundation on DPR's acquisition of the subject property for public access and protection of the site's dune habitat is consistent with this section.

Section 31352 states that in the event any public agency or nonprofit organization is unable, due to limited financial resources or other circumstances, to acquire, hold, protect, or use an interest in real property for a purpose provided in §31351, the Conservancy may award a grant to a public agency or nonprofit organization and provide technical assistance required to aid the public agency or nonprofit organization in completing the acquisition or related functions. Conservancy funding would aid DPR in completing the proposed acquisition.

The project is also consistent with Chapter 9 of Division 21, commencing with §31400 which gives the Conservancy a principal role in the implementation of a system of public accessways to and along the coast. The project is consistent with §31400.1 which enables the Conservancy to award grants to any public agency to develop, operate, or manage lands for public access purposes. The project is also consistent with §31400.2 which enables the Conservancy to provide up to the total cost of the acquisition of interests in lands, as provided in §31400.1.

The amount of funding provided by the Conservancy has been determined by the total amount of funding available for coastal public accessway projects, the fiscal resources of DPR, the urgency of the project relative to other eligible projects, and the application of factors described by the Conservancy for the purpose of determining project eligibility and priority in order to more effectively carry out the provisions of the division. Consistent with §31400.3, the Conservancy is providing assistance to DPR and the nonprofit Bay Foundation in establishing a system of public coastal accessways, and related functions necessary to meet the objectives of Division 21 of the Public Resources Code.

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

Consistent with **Goal 2 Objective A**, the project would increase public access, protect open space and views, and expand the parkland of Montana de Oro State Park.

Consistent with **Goal 2 Objective B**, the project would open an area that is currently closed to public use while respecting the rights of nearby landowners and the need to minimize impacts on sensitive natural resources.

Consistent with **Goal 4 Objective A**, the project would result in the acquisition of 42.2 acres of property of special significance.

Consistent with **Goal 5 Objective A**, the project would serve to preserve, restore, and enhance 42.2 acres of coastal dune habitat.

Consistent with **Goal 5 Objective B**, the project would serve to preserve and restore coastal dune habitat corridors, including habitat for the Morro shoulderband dune snail, a federally listed endangered species.

Consistent with **Goal 8 Objective A**, the project would serve to resolve a land use conflict stemming from local coastal program land use and zoning policies on allowable development and the protection of environmentally sensitive habitat. The project would also serve to promote habitat conservation planning in the area.

**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 "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 5. Additional letters will be mailed separately and/or provided at the board meeting.
4. **Location:** The property is located in the coastal zone of San Luis Obispo County.
5. **Need:** Conservancy funds are needed to match funds from DPR and WCB for the project. Without Conservancy funds, the project could not be completed.
6. **Greater-than-local interest:** The project is located adjacent to Montana de Oro State Park which receives an estimated 800,000 visitors annually from all over the world. When completed, the project will serve visitors from near and afar, including hikers, birders, and other outdoor enthusiasts.

**Additional Criteria**

7. **Urgency:** The purchase agreement requires that funds be deposited into escrow by December 31, 2003. To meet this deadline, urgent action is necessary by the Conservancy and its funding partners.
8. **Resolution of more than one issue:** This project will resolve multiple issues including the protection of the property's sensitive habitat and visual resources, while providing new public access opportunities.
9. **Leverage:** See the "Project Financing" section above.
10. **Conflict resolution:** Hotel development on the subject property would conflict with the state's historic and ongoing conservation efforts in the area. Purchasing this property for addition to the state park would eliminate all development potential and thus resolve conflicts with public agency efforts to protect the area's scenic and recreational values and sensitive dune habitat.
12. **Readiness:** An appraisal has been approved by the state and the landowner is ready to sell the property at the appraised fair market value. DPR is ready to acquire and manage the property for resource protection and public access.
15. **Cooperation:** This project has entailed the cooperation of several state agencies, working together with the Bay Foundation and the landowner. The state agencies will cooperate in planning for the management of the property both for resource protection and public access purposes.

**COMPLIANCE WITH CEQA:**

The acquisition of the property as provided in this staff recommendation is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to 14 Cal. 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) §15313 because it will preserve access to public lands and waters where the purpose is to preserve the land in its natural condition. Staff will file a Notice of Exemption upon approval of the project.