

COASTAL CONSERVANCY

Staff Recommendation

May 18, 2005

**TOLAY LAKE RANCH ACQUISITION**

File No. 04-109

Project Manager: Maxene Spellman

**RECOMMENDED ACTION:** Authorization to amend a condition of the Conservancy's March 10, 2005 grant award to the Sonoma County Agricultural Preservation and Open Space District for acquisition of Tolay Lake Ranch, with regard to areas of the property to be permanently dedicated for habitat preservation, open space protection and public access, until the District is able to repay its loan to the County of Sonoma for the remainder of the property.

**LOCATION:** Southern foothills of the Sonoma Mountains, between the cities of Petaluma and Sonoma, north of Highway 37 in southern Sonoma County. (Exhibit 1: Project Location and Site Maps).

**PROGRAM CATEGORY:** San Francisco Bay Area Conservancy

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***EXHIBITS***

Exhibit 1: Project Location and Site Maps

Exhibit 2: Map of 317-acre property to be permanently protected

Exhibit 3: 3/10/05 Tolay Lake Ranch Staff Recommendation

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**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 amends conditions of its March 10 2005 authorization for the acquisition of Tolay Lake Ranch by the Sonoma County Agricultural Preservation and Open Space District, by revising condition #3 and adding condition #5, to read as follows:

1. Prior to the disbursement of funds for the acquisition, the District shall submit for the review and approval of the Executive Officer of the Conservancy:

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- (a) All relevant acquisition documents, including, without limitation, the appraisal, purchase agreement, escrow instructions, environmental or hazardous materials assessment and title report.
  - (b) Evidence that sufficient funds are available to complete the acquisition.
2. The District shall pay no more than fair market value for the property, as approved by the Department of General Services, based on an appraisal of the property.
3. The District shall permanently dedicate the following property interests immediately upon transfer of fee title:
  - a. The 317.62-acre property currently owned by Marvin and Rita Cardoza, shown on Exhibit 2 of the accompanying staff recommendation (Assessor Parcel Nos. 068-060-057 and 068-060-058) shall be dedicated for habitat preservation, open space protection and public access, through an irrevocable offer to dedicate an interest in the property or other instrument approved by the Executive Officer.
  - b. A public access easement over a ridge trail corridor extending through the length of the property shall be offered for dedication to public agencies, in a manner approved by the Executive Officer.
  - c. A conservation easement over the Tolay Creek riparian corridor extending from the lakebed to the southern boundary of the property shall be offered for dedication to public agencies, in a manner approved by the Executive Officer.
  - d. A conservation easement shall be granted or offered to the California Department of Fish and Game over the 200-acre Tolay Lake lakebed.
4. 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.
5. Immediately upon the District's repayment of the loan from the County of Sonoma for the Tolay Lake Ranch acquisition, the remainder of the Tolay Lake Ranch property (Assessor Parcel Nos. 068-070-004; 068-070-005; and 068-070-001) shall be permanently dedicated for habitat preservation, open space protection and public access, through an irrevocable offer to dedicate an interest in the property or other instrument 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 the proposed project remains 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 31160-31164, and with the Project Selection Criteria and Guidelines adopted by the Conservancy on January 24, 2001."

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### **PROJECT SUMMARY:**

On March 10, 2005 the Conservancy authorized the disbursement of up to \$2,000,000 for the acquisition of the 1,737-acre Tolay Lake Ranch in southern Sonoma County for the protection and restoration of natural resources and to provide public access. (See Exhibit 3, March 10, 2005 Staff Recommendation for Tolay Lake Ranch Acquisition.) That authorization included discussion of the project as a high priority for the District, Conservancy and others because it will protect the property's abundant natural and archeological resources, and will provide the opportunity for low-intensity, outdoor public recreation that is greatly needed in southern Sonoma County. The original staff recommendation also noted that there is an urgency and priority for acquisition of Tolay Lake Ranch because it could be sold for rural residential development, destroying the intact habitat systems currently existing on the property, and eliminating the opportunity to restore ancient 200-acre Tolay Lake.

After the Conservancy's March meeting District staff informed Conservancy staff that the funding package for acquisition of the Tolay Lake Ranch included a loan from the County of Sonoma in the amount of \$11,500,000 secured by a significant portion of the property itself. The District is obligated to repay these funds to the County within five years under terms of a debt-lease financing arrangement that could result in sale of the property if the funds are not repaid. This financing arrangement would make it impossible for the District to comply with condition #3 of the March 10 Coastal Conservancy authorization requiring that all of the property be "permanently dedicated for habitat preservation, open space protection and public access, through an irrevocable offer to dedicate an interest in the property or other instrument approved by the Executive Officer." Moreover, although the Conservancy's \$2,000,000 grant represents only a small portion of the total funds needed to complete the purchase, it was made for the purpose of assisting in the permanent preservation and public use of the entire 1737-acre Tolay Lake Ranch.

Staff is now recommending that the Conservancy amend conditions of the March 10 authorization in a manner that would permit the acquisition to go forward under the proposed financing arrangement without sacrificing the Conservancy's goals for the project. The District staff has indicated that the bulk of the property must remain unencumbered for purposes of the lease-purchase arrangement until such financing is paid off. However, the property is currently held in two separate ownerships and District and Conservancy staffs, working together, have identified areas critical for resource protection on the property that can be immediately dedicated to these resource preservation goals. The smaller of the two parcels, consisting of 317 acres, would be permanently dedicated and restricted to habitat preservation, open space protection and public access in the same manner contemplated by the original condition. (See Exhibit 2, Map of the 317-acre property to be permanently protected immediately upon acquisition). In addition, the California Department of Fish and Game (DFG) will obtain a conservation easement over the bed of Tolay Lake, which straddles the 317-acre property and the remainder portion. Although the DFG conservation easement is subject to a one-year leaseback to the sellers to continue pumpkin farming in that area, it would survive

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any sale of the remainder of the property. The additional Conservancy conditions requiring the immediate dedication of public access and riparian corridor easements would also protect meaningful recreational and habitat values over the remainder of the property, even if that remainder property is ultimately sold. Finally, the entire property would be permanently dedicated to habitat preservation, open space protection and public access once the District has repaid the loan to the County in no more than 5 years.

The County and the District intend that ultimately fee title to the entire property will be held by the County and managed by its Regional Parks Department for resource protection and low-intensity public outdoor recreational uses, pursuant to a Park Management Plan to be initiated immediately upon acquisition. In addition to the conservation easement over the lakebed in favor of the California Department of Fish and Game, the District will hold conservation easements over the entire property (initially, over the 317-acre parcel and, upon full repayment of County financing, over the remainder of the property) that will guide development and implementation of the Park Management Plan.

Staff is recommending the proposed revised authorization because of the high resource value of the property, the critical opportunity this acquisition represents, and the agreement between the District and the County to immediately open the property to the public. The District is committed to repayment of the County loan through its ¼ cent sales tax revenue, and the County would resort to a sale of the property only reluctantly and as a last resort. At worst, in the event that sales tax revenues are inadequate to repay the County financing, acquisition would result in the permanent protection of 317 acres, the lakebed, and the trail and riparian corridors. The appraised value of the 317-acre parcel alone is well in excess of the Conservancy's contribution of \$2,000,000. Thus, even in this unlikely worst-case scenario, the property value as well as the natural resource values and other public benefits to be obtained are fully adequate to support the Conservancy grant.

Once the property is acquired, the District will begin to repay the loan and immediately transfer fee ownership of the property to Sonoma County Regional Parks. Regional Parks will develop a management plan and guidelines for preserving and restoring natural and cultural resources on the site and the District will continue to participate in long-term management decisions to help protect the property's cultural and natural resources. Once transferred to Regional Parks, the property will be managed as Tolay Lake Regional Park and within 30 days will be open for public access, with many miles of hiking over existing ranch roads and trails. A one year lease back arrangement with the sellers will allow pumpkins to continue to be grown and sold to the public in the fall, as has been the case for several years.

**Site Description of Permanently Protected Areas:** For a description of the entire 1,737-acre Tolay Lake Ranch, see Exhibit 3, 3/10/05 Tolay Lake Ranch Staff Recommendation under "**Site Description**". The site description for this amended authorization focuses primarily on the 317-acre property in the northwestern section owned separately by Marvin and Rita Cardoza. The remaining 1,420-acre portion is owned by the Cardoza family Trust. The 317-acre property would not be encumbered by

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the County loan and would be permanently dedicated and restricted to habitat preservation, open space protection and public access immediately upon acquisition of the property, as contemplated by the original condition. (See Exhibit 2, Map of the 317-acre property to be permanently protected and adjoining 1,420-acre portion.)

- 317-acre Portion and Tolay Lake: The Marvin and Rita Cardoza property is located at the northwest corner of the ranch on level to gently sloping terrain. From this property's paths one can view the Tolay Creek watershed, San Pablo Bay to the south and the City of Petaluma to the east. Tolay Creek enters the Ranch at its northern border and drains into Tolay Lake which straddles this site and the adjoining 1,420-acre portion. The 317-acre site contributes significant wetland habitat, including seasonal ponds, freshwater marshes, and about half of Tolay Lake that provides significant open water for migrating birds and waterfowl. The western pond turtle and dozens of bird species are found here including the burrowing owl (a species of special concern), golden eagles, northern harriers, white tailed kites, kestrels, and raptors. The hillsides rising west of the Lake provide habitat for numerous mammals including the threatened red-legged frog, bobcat, deer and coyote. Currently the 317-acre property is used for grazing (32 acres), and irrigated produce including pumpkins (104 acres), alfalfa/hay production (169 acres), and vineyard (10 acres). Only pumpkin production will remain for one year after acquisition.

The conservation easement in favor of the DFG will cover the 200-acre Tolay Lake straddling the 317-acre property and the remaining 1,420-acre property. The conservation easement, which will include uplands bordering the perimeter of the Lake, will be recorded immediately upon acquisition. The importance of Tolay Lake cannot be overemphasized. It evolved as an ancient sedimentary lake, and is currently the only large natural body of freshwater in the San Pablo Bay watershed. Formerly about 300 to 400 acres in size, the lake was diked and drained for farming over 100 years ago. Evidence suggests that Tolay Lake was the site of both prehistoric and historic civilizations. The State Department of Parks and Recreation has determined the cultural and historic resources to be of statewide – and possibly nationwide – importance. Numerous charmstones, carved rock objects used for both ritual and practical purposes dating back perhaps 4000 years, have been found in the lakebed and environs, some of which were sent to the Smithsonian Museum in the early 1900's. The property has never been properly surveyed by a professional archaeologist. When it is, it is likely that many more sites will be discovered.

- Public Access Easement Over the Length of the Property: Rising to the east above the Tolay Lake and Tolay Creek valley is a ridgeline that extends from the northern boundary of the property to its southern end. One can see from various points on this ridgeline the best views anywhere on the property. Spectacular views include those of the Petaluma River

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basin, Mt. Tamalpais, San Francisco, Oakland, Mt. Diablo, Mt. St. Helena and other scenic points in the Bay Area. The Conservancy would require a permanently dedicated public access easement to encompass a trail corridor along this entire ridgeline. The easement could be accepted and managed for public use by a public agency (such as the District, the County or the Conservancy) in the event of sale of the 1420-acre property. Alternatively, once the County funds are repaid, this and other access trails on the property would likely be developed and managed by Sonoma County Regional Parks pursuant to the management plan.

- Conservation Easement Over the Tolay Creek Riparian Corridor: Tolay Lake drains into Tolay Creek, which extends from the northern portion of the remaining 1420-acre site to its southern border. Although the creek is ephemeral, its corridor offers habitat for the threatened red-legged frog, a variety of songbirds and other riparian plants and animals. The Conservancy would require a permanently dedicated conservation easement over the extent of this riparian corridor for the protection of this habitat. As with the trail dedication, the easement could be accepted and held by a public agency in the event of sale of the 1420-acre property, thus ensuring permanent protection of the riparian corridor. Another purpose of obtaining a conservation easement over the riparian corridor is to ultimately protect a continuous corridor all the way to the Bay. Tolay Creek continues south of the property onto the privately owned neighboring property, then connects further south to the 20,000 acres of protected, contiguous Sonoma Baylands. The Sonoma Land Trust is currently negotiating with this neighboring landowner whose property is the only one separating Tolay Lake Ranch from the protected Sonoma Baylands.

### PROJECT FINANCING:

Coastal Conservancy	\$2,000,000
Sonoma County Agricultural Preservation and Open Space District	\$182,432
County of Sonoma Loan to the District	\$11,500,000
Wildlife Conservation Board	\$1,000,000
Department of Fish & Game Mitigation Funds	\$2,000,000
Sonoma County Regional Parks	\$477,078
Sonoma County Park Acquisition Trust Fund	\$75,930
Land & Water Conservation Funds Grant	\$202,980
Private Donations	\$561,580

**Total Project Cost** **\$18,000,000**

Conservancy funds for this project are expected to derive from the Conservancy's FY 04/05 appropriation from the Water Security, Clean Drinking Water, Coastal and Beach

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Protection Act of 2002 (Proposition 50) which can be used for coastal watershed protection, including the acquisition and protection of land and water resources pursuant to Chapter 4.5 of Division 21 of the Public Resources Code. Pursuant to Section 31162(b) of Chapter 4.5 of Division 21, this project furthers the San Francisco Bay Area Conservancy Program's goal to protect, restore, and enhance natural habitats.

### **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 31160-31164, to address resource and recreational goals in the San Francisco Bay Area. In its March 10, 2005 authorization, the Conservancy determined the project to be consistent with Chapter 4.5 of the Division, and these determinations would equally apply in the event that some portion of the property were sold, subject to the dedicated interests described above.

Under Section 31162(b), the Conservancy may act to protect, restore, and enhance natural habitats and connecting corridors, watersheds, scenic areas, and other open-space resources of regional significance. The proposed project will protect at least 317.6 acres of wetland, woodland, and grassland habitat, as well as a highly scenic open space resource and a critical stretch of riparian habitat corridor.

In addition, consistent with Section 31162(d), the project will provide open space and a natural area that is accessible to the urban population of the San Francisco Bay Area for recreational and education purposes.

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

Consistent with **Goal 10 Objective A**, the proposed project will result in the acquisition of at least 317 acres, and potentially over 1,700 acres of wetlands, watershed and uplands, as well as two miles of riparian habitat along Tolay Creek. Also consistent with this goal, the project leverages \$2,000,000 of Conservancy funding for an \$18,000,000 acquisition.

Consistent with **Goal 11, Objective A**, the proposed project will result in a significant increase in land that will be accessible to the public for recreational purposes.

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

In its March 10, 2005 authorization, the Conservancy determined the proposed project to be consistent with the Conservancy's Project Selection Criteria and Guidelines adopted January 24, 2001, and these determinations would equally apply in the event that some portion of the property were sold, subject to the dedicated interests described above. In addition to criteria discussed in the March 10, 2005 Staff Recommendation (Exhibit 3), the following considerations support the revised conditions of Conservancy funding:

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**Need:** The opportunity to secure the Tolay Lake Ranch could be lost without Conservancy support. The District will exercise its line of credit established with Sonoma County to make this acquisition, and has worked with Regional Parks in locating multiple additional funding sources, including the Wildlife Conservation Board, Department of Fish & Game, the Land and Conservation Fund, Sonoma County Regional Parks, and private donations, all of which are contributing to the extent they can.

**Urgency:** There is an urgent need to acquire this Property in the very near future. The Property has been assigned fifteen Certificates of Compliance ranging from 22 to 236 acres in size. Locally, more pressure is coming to bear on properties north of Highway 37. With easy road access to major highways and the Bay Area, this pressure will likely continue to increase. If not sold in its entirety now, the owners will likely begin to sell the individual parcels. This would disturb the contiguous nature of wetland, upland and riparian habitat on the Property, and would prevent future public use of the land. Funding is available for purchase of the property now, using the County's lease-purchase financing, and even in a worst-case scenario, if the funds cannot be repaid, critical areas of the property would be permanently protected.

**Cooperation:** The District and the Sonoma County Regional Parks have led the effort to acquire the Property, but have enlisted the cooperation of resource agencies, nonprofit organizations and citizen groups, as described in the March 10 Staff Recommendation. The proposed revised conditions also demonstrate a level of cooperation among all of the funding and acquiring entities to ensure protection of the most critical resources on the property and of the funders' investments in the project.

**COMPLIANCE WITH CEQA:** Acquisition of the Tolay Lake Ranch is categorically exempt from the California Environmental Quality Act (CEQA) in that it involves the acquisition of land for open space and wildlife habitat purposes and to preserve existing natural conditions (14 Cal. Code of Regulations Section 15325), and acquisition of land in a natural condition and containing archaeological and or historic sites to establish a park, when the management plan for the park has not yet been prepared (14 Cal. Code of Regulations Section 15316). Staff filed a CEQA Notice of Exemption upon Conservancy approval of the project following its March 10, 2005 Board meeting.