

COASTAL CONSERVANCY

Staff Recommendation

May 18, 2005

**BLACK LAKE CANYON ENHANCEMENT PLAN IMPLEMENTATION  
ROSSI ACQUISITION**

File No. 05-009

Project Manager: Timothy Duff

**RECOMMENDED ACTION:** Authorization to disburse up to \$645,000 to the Land Conservancy of San Luis Obispo County for the acquisition and restoration of the Rossi property, pursuant to the Black Lake Canyon Enhancement Plan.

**LOCATION:** Twelve miles south of Pismo Beach in unincorporated Arroyo Grande, directly east of the Guadalupe-Nipomo Dunes Preserve and Highway One, southern San Luis Obispo County (Exhibits 1 and 2).

**PROGRAM CATEGORY:** Resource Enhancement

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**EXHIBITS**

Exhibit 1: Project Location

Exhibit 2: Regional Location Map

Exhibit 3: Site Map

Exhibit 4: Pond/Wetland

Exhibit 5: Map of Protected Properties

Exhibit 6: Letters of Support

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**RESOLUTION AND FINDINGS:**

Staff recommends that the State Coastal Conservancy adopt the following resolution pursuant to Sections 31251-31270 of the Public Resources Code:

“The State Coastal Conservancy hereby authorizes disbursement of up to six hundred forty five thousand dollars (\$645,000) to the Land Conservancy of San Luis Obispo County (“Land Conservancy”) for the acquisition and restoration of the “Rossi” property (“property”), San Luis Obispo County Assessor’s Parcel No 091-151-005, to implement the Black Lake Canyon Enhancement Plan, approved by the Conservancy on May 21, 1993, subject to the following conditions:

1. Prior to disbursement of Conservancy funds for the acquisition:
  - a. The Land Conservancy 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, escrow instructions, and documents of title;
  - b. The Land Conservancy shall provide evidence that all non-Conservancy funds necessary to complete the acquisition are available.
2. The purchase price shall not exceed fair market value for the property, as established in an appraisal approved by the Conservancy.
3. The Land Conservancy shall permanently dedicate the property for natural resource protection, public access and open space preservation by an appropriate instrument approved by the Executive Officer, in accordance with Public Resources Code Section 31116(b).
4. Prior to the disbursement of restoration funds, the Land Conservancy shall submit for the review and approval of the Executive Officer of the Conservancy:
  - a. Evidence that it has obtained all necessary permits and approvals, and all other funds necessary to complete the proposed restoration projects.
  - b. A final work program, including a budget, schedule, and names of any contractors and subcontractors to be employed for these tasks.
5. In implementing the restoration projects funded under this authorization, the Land Conservancy shall carry out mitigation requirements and/or conditions contained in all required permits.
6. Conservancy funding for both the acquisition and the restoration projects shall be acknowledged by erecting and maintaining a sign on the property, the design and location of which has been reviewed and approved by the Conservancy’s Executive Officer.”

“Based on the accompanying staff report and attached exhibits, the State Coastal Conservancy hereby finds that:

1. The proposed project is consistent with the purposes and criteria set forth in Chapter 6 of Division 21 of the Public Resources Code (Sections 31251-31270) regarding enhancement of coastal resources.
2. The proposed project is consistent with the Conservancy’s Project Selection Criteria and Guidelines adopted January 24, 2001.
3. The Land Conservancy of San Luis Obispo County is a nonprofit organization existing under Section 501(c)(3) of the U.S. Internal Revenue Code, and whose purposes are consistent with Division 21 of the Public Resources Code.”

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**PROJECT SUMMARY:**

If approved, the Conservancy will provide up to \$645,000 to the Land Conservancy of San Luis Obispo County (LCSLO) for the acquisition and restoration of the 12.8-acre Rossi property in Black Lake Canyon, San Luis Obispo County (Exhibits 1 and 2). This property is identified as the first priority for fee acquisition in the lower reach of the canyon in the Black Lake Canyon Enhancement Plan approved by the Conservancy in 1993. One of the principal recommendations in this plan is to acquire fee title or easement interests in key parcels along the bottom of the canyon to facilitate protection and management of the canyon's unique wetland habitat.

The primary goal in acquiring the subject property is to eliminate the development rights to construct up to eight homes and thereby provide permanent protection to the site's freshwater marsh and wetland habitat. The property's wetlands are closely associated with, and are an extension of, the wetlands found in the Dune Lakes area of the Guadalupe-Nipomo Dunes Preserve located immediately west of the canyon (Exhibit 5). The Dune Lakes area contains a series of freshwater lakes that are fed in part by water draining from Black Lake Canyon. Because the LCSLO already owns an adjacent 34-acre property with similar resource values, including a freshwater pond that extends over both properties, the proposed acquisition would result in the complete protection of this unique wetland resource and the habitat surrounding it (Exhibits 3 and 4). In addition to protecting the property's unique wetland habitat by eliminating potential sedimentation from residential development, the proposed funding would also enable the LCSLO to restore existing degraded areas and to construct a fence to discourage trespass on the property's more sensitive habitat areas.

The LCSLO is the ideal partner for the proposed project. With past funding support from the Conservancy, the LCSLO has taken the lead in the protection and restoration of Black Lake Canyon's natural resources for the past 15 years. Today, the LCSLO owns and manages over 1,500 acres in the area, including fee title to four properties and two conservation easements in Black Lake Canyon, and fee and easement interests on two additional properties in the adjacent dunes complex (Exhibit 5).

**Site Description:** The 12.8-acre property is located at the westerly terminus of Black Lake Canyon at its interface with the Guadalupe-Nipomo Dunes complex. The site is bounded by Highway One to the west, a county-owned road to the south, a private residence to the east and land owned by the LCSLO to the north (Exhibit 3). The property is comprised of one residentially zoned legal parcel, with eight separate lots that could each be potentially developed for residential use by virtue of Certificates of Compliance that have been issued by the County of San Luis Obispo. The current owner owns adequate water allocations necessary to develop the property for this purpose.

Black Lake Canyon is located on the Nipomo Mesa approximately 19 miles south of San Luis Obispo and approximately 8 miles north of Guadalupe (Exhibit 2). Four miles in length, the canyon traverses the Nipomo Mesa along an east-west axis from Pomeroy Road to Highway One where it drains into Black Lake and the larger Dunes Lakes complex. The watershed of Black Lake Canyon consists of approximately 1,555 acres.

The Guadalupe-Nipomo Dunes complex comprises 22,000 acres of central California's coast and is the largest coastal dune ecosystem in the Western United States. The Dunes stretch from Pismo Beach in the north to Point Sal in the south. Black Lake Canyon plays an important part in the greater Guadalupe-Nipomo Dunes ecosystem due to its hydrologic influence, its role as an important habitat migration corridor, and as a climax community for coastal dune vegetation succession. The canyon contains a diversity of plant communities, and is home to twenty-five sensitive plant species, including two species recently added to the federal endangered species list, Gambel's watercress (*Rorippa gambelli*), and marsh sandwort (*Arenaria palludicola*). The federally threatened California red-legged frog has also been observed in the canyon's wetland and pond areas. Although no federally listed species are known to be present on the subject property, the site does contain coastal dune scrub, maritime chaparral, riparian woodland, and freshwater marsh and wetland habitat. Many of these plant communities are closely associated with, and are an extension of, the communities found in the Dune Lakes area of the Guadalupe-Nipomo Dunes Preserve located immediately west of the canyon. The Dune Lakes area also contains a series of freshwater lakes that are fed in part by water draining from Black Lake Canyon (Exhibit 5).

**Project History:** The Conservancy has been involved in land acquisitions in the Guadalupe-Nipomo Dunes complex since 1988, when California voters approved the California Wildlife, Coastal and Park Land Conservation Act (Proposition 70), which provided \$10 million to the Coastal Conservancy to acquire lands and implement enhancement and access projects in the Guadalupe-Nipomo Dunes complex. In 1993, the Conservancy established a framework for the coordinated enhancement and management of the canyon's resources when it approved the Black Lake Canyon Enhancement Plan prepared by the LCSLO with Conservancy funding. At that time, the Conservancy also provided funds to the LCSLO to implement several projects pursuant to the plan, including the preparation of a sediment management and erosion control plan, a baseline hydrology study, and restoration of a two-acre property owned by the LCSLO.

The three properties identified in the enhancement plan for fee acquisition were targeted based on their biological resources, educational value, relationship to other properties, and future development potential. In 2000, the Conservancy provided funds to the LCSLO to acquire fee title to the highest priority property located in the upper canyon, and in 2003 the Regional Water Quality Control Board granted funds to the LCSLO to acquire the second of these three targeted properties. The proposed Rossi acquisition represents the third and final high priority fee title acquisition in the canyon.

**PROJECT FINANCING:**

<u>Acquisition</u>	
Coastal Conservancy	\$620,000
Central Coast Regional Water Quality Control Board	600,000
U.S. EPA	200,000
LCSLO	<u>180,000</u>
<b>Acquisition Total</b>	<b>\$1,600,000</b>

<b><u>Restoration</u></b>	
Coastal Conservancy	\$25,000
LCSLO	<u>10,000</u>
<b>Restoration Total</b>	<b>\$35,000</b>
<b>Total Project Cost</b>	<b>1,635,000</b>

The expected source of Conservancy funds for the project is the California Parks and Wildlife Act of 1988 (Proposition 70) which designated \$10 million specifically for acquisition and restoration projects located in and around the Guadalupe-Nipomo Dunes Preserve, including wetland, riparian and endangered species habitat projects. Approximately \$2.5 million currently remains in this fund.

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

This project is undertaken pursuant to Chapter 6 of the Conservancy's enabling legislation, Public Resources Code Sections 31251-31270. Under §31251.2(a), the Conservancy may award grants to enhance a watershed resource that is partly outside of the coastal zone in order to enhance coastal resources within the coastal zone, in this case the Guadalupe-Nipomo Dunes and wetlands. Consistent with this section, the local public agency having jurisdiction over the entire project area (San Luis Obispo County) has approved the enhancement plan recommending acquisition of key properties in Black Lake Canyon, including the subject property.

Pursuant to Section 31252, Black Lake Canyon has been identified in the Land Use Element of the South County Area Plan as requiring public action to resolve existing or potential resource protection problems. See further discussion below under the "Consistency with Local Coastal Program" Section.

Pursuant to §31253, the Conservancy may provide up to the total cost of any coastal resource enhancement project. In determining the amount of Conservancy funding for this project, the factors identified in §31253 have been considered and applied, as described in detail below, under the heading "Consistency With Conservancy's Project Selection Criteria & Guidelines."

Finally, consistent with §31260, as part of an approved coastal resource enhancement project, the Conservancy may fund the cost of land acquisition.

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

Consistent with **Goal 2, Objective B**, of the Conservancy's Strategic Plan, the project would serve to open an area that is currently inaccessible or 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**, of the Conservancy's Strategic Plan, the project would result in the acquisition of over 12 acres of land of special significance.

Consistent with **Goal 5, Objective B**, of the Conservancy's Strategic Plan, the project would serve to preserve and restore habitat corridors between coastal habitats and inland habitat areas.

Consistent with **Goal 6, Objective A**, of the Conservancy's Strategic Plan, the project would serve to preserve and restore a coastal watershed.

Consistent with **Goal 6, Objective B**, of the Conservancy's Strategic Plan, the project would serve to improve water quality to benefit coastal resources by working with the Central Coast RWQCB to eliminate development that could impact a coastal watershed.

### **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:** This project has widespread support, including that of State Senator Maldonado, Assemblyman Blakeslee, the Central Coast Regional Water Quality Control Board, the County of San Luis Obispo, citizen advisory groups, and environmental organizations.
4. **Location:** The proposed acquisition will serve to enhance the wetland and riparian habitats of both Black Lake Canyon which is located outside the coastal zone, and Dune Lakes which is located inside the coastal zone within the Guadalupe-Nipomo Dunes Preserve.
5. **Need:** Conservancy matching funds are needed to complete the proposed acquisition and wetland restoration.
6. **Greater-than-local interest** The proposed acquisition will serve to protect one of the most unique habitat areas in San Luis Obispo County, including habitat for two state and federally listed endangered plants found within the canyon. The acquisitions will also benefit wetland and riparian areas in the Guadalupe-Nipomo Dunes Preserve at Dune Lakes.

**Additional Criteria**

7. **Leverage:** See the “Project Financing” section above.
8. **Readiness:** The LCSLO has obtained a purchase agreement, and has all of the other funds it needs to complete the transaction this year.
9. **Realization of prior Conservancy goals:** See “Project History” above.
10. **Cooperation:** This project is an example of cooperation among a private nonprofit organization, a private landowner, and local, state and federal resource agencies.

**CONSISTENCY WITH LOCAL COASTAL PROGRAM POLICIES:**

The Guadalupe-Nipomo Dunes have been identified in the South San Luis Obispo County Coastal Area Plan and Local Coastal Program as requiring public action to resolve existing or potential resource protection problems. With Black Lake Canyon draining directly into the northern portion of the Guadalupe-Nipomo Dunes at Dune Lakes, protection of the canyon’s natural resources will serve to protect this significant coastal dune and wetland area.

The San Luis Obispo County certified South County Inland Area Plan designates Black Lake Canyon as a Sensitive Resource Area (SRA). Policy SRA-1 states, “The narrow marsh area inland from Dune Lakes is one of the few remaining freshwater marshes in this area used by migratory waterfowl. This area should be protected as a wildlife refuge and any development on adjacent uplands should be carefully controlled to prevent sedimentation of the marsh.” The subject property is located in this SRA and the acquisition and restoration of its wetland habitat will serve to protect wildlife, including waterfowl, that migrate through the area. Policy SRA-7 states, “Preservation of this unique habitat should be given priority,” and Policy SRA-9 states that, “The County should preserve land below the rim of the Black Lake Canyon through a variety of mechanisms.”

**COMPLIANCE WITH CEQA:**

The proposed acquisition is exempt from the California Environmental Quality Act (CEQA) according to 14 Code of Regulations Section 15325 which exempts from CEQA review “...transfers of ownership in interests in land in order to preserve open space, habitat or historical resources.” The proposed restoration activities, including the revegetation of habitat areas, are exempt from review under Section 15304 (Minor Alterations to Land). Consistent with Section 15304, the proposed restoration projects will consist of minor alterations in the condition of the land, water, and vegetation that do not involve removal of healthy, mature, scenic trees. Further, consistent with 15304(a), any grading will be on land with a slope of less than 10 percent and will not occur in any waterway, wetland, officially recognized scenic area, or severe geologic hazard area. The proposed fencing to protect sensitive habitat areas is also exempt from review under Section 15303 (New Construction or Conversion of Small Structures) which exempts “...construction and location of limited numbers of new, small facilities, or structures...”. Section 15303(e) specifically provides an exemption for accessory structures such as fences.

Upon approval staff will file a Notice of Exemption for this project.