

COASTAL CONSERVANCY

Staff Recommendation  
September 20, 2007

**PONCIA RANCH CONSERVATION EASEMENT**

File No. 07-068  
Project Manager: Su Corbaley

**RECOMMENDED ACTION:** Authorization to disburse up to \$750,000 to the Marin Agricultural Land Trust (MALT) to acquire an agricultural conservation easement over the 750-acre Poncia Ranch.

**LOCATION:** The Poncia Ranch is located 3 miles south of the town of Tomales in western Marin County, along Highway 1 (Exhibit 1)

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

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**EXHIBITS**

- Exhibit 1: [Project Location and Site Map](#)
  - Exhibit 2: [Property Detail Map](#)
  - Exhibit 3: [Ranch Views](#)
  - Exhibit 4: [Letters of Support](#)
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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 the disbursement of an amount not to exceed seven hundred fifty thousand dollars (\$750,000) to the Marin Agricultural Land Trust for the acquisition of an agricultural conservation easement over the approximately 750-acre Poncia Ranch property (Marin County Assessors Parcel Nos. 104-110-02 and 104-110-10), subject to the following conditions:

1. Prior to the disbursement of any Conservancy funds for acquisition, the Marin Agricultural Land Trust shall submit for review and approval of the Executive Officer of the Conservancy (the “Executive Officer”):
  - a. All relevant acquisition documents, including, without limitation, appraisals, purchase agreements, conservation easements, escrow instructions and documents of title.
  - b. A Baseline Conditions Report certified by the grantor and a Monitoring and Reporting

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Plan.

- c. Documentation that all other funds necessary to the acquisition have been obtained.
2. The purchase price of the conservation easement shall not exceed fair market value, as established in an appraisal approved by the Executive Officer of the Conservancy.
3. The easement interest acquired under this authorization shall be managed and operated in a manner consistent with the purpose of agricultural conservation, open space preservation and natural resource protection. The property interests acquired under this authorization shall be permanently dedicated to those purposes in accordance with Public Resources Code Section 31116(b).
4. Conservancy funding shall be acknowledged by erecting and maintaining on the property a sign, the design and placement of which has been reviewed and 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 authorization is consistent with Chapter 4.5 of Division 21 of the Public Resources Code (Sections 31160 *et seq.*), regarding the preservation of agricultural lands.
2. The proposed project is consistent with the Project Selection Criteria and Guidelines adopted by the Conservancy on January 24, 2001.
3. The Marin Agricultural Land Trust is a nonprofit organization existing under Section 501(c)(3) of the U.S. Internal Revenue Code, whose purposes, which include the preservation of land for agricultural and open space opportunities, are consistent with Division 21 of the Public Resources Code.”

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**PROJECT SUMMARY:** The proposed authorization would enable the Marin Agricultural Land Trust (MALT) to acquire an agricultural conservation easement over the Poncia Ranch located three miles south of the town of Tomales in west Marin County. The ranch was historically a dairy cattle operation, and its pasture was used for grazing. In 1992, the dairy operation ceased and since then the ranch has been used for grazing beef cattle and heifers. The property consists of 750 acres, over two parcels, owned 50 percent by Eugene Poncia and 50 percent by his cousins. Mr. Poncia is a fourth generation Marin County rancher who was born and has lived his entire life on the property. He inherited the property from his father and would use the sale of a conservation easement to buy out his cousins, who are interested in pulling their equity out of the property. The owners have an agreement that, unless Mr. Poncia is able to purchase the others’ interests by December 31, 2007, the ranch would be sold on the open market where there would be no guarantees for its future uses. MALT has an agreement to purchase the easement by the end of December 2007. The sale of a conservation easement would enable Eugene Poncia to secure 100 percent ownership of the property to consolidate ownership and stay on the land he loves, and ensure the continued agricultural use of the property.

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In recent years similarly-sized agriculture properties on or near the east shore of Tomales Bay have been sold for estate development. Each of the two parcels on the ranch is encumbered by a single 10-year Williamson Act contract, which requires the owners to maintain agricultural production on the property. While a Williamson Act contract does protect property from uses other than agricultural production, the contract is voluntary and not permanent, and can be extinguished by the owner. Due to increasing economic pressures on the agricultural community in Marin County, more ranchers may find it necessary for financial reasons to sell their property.

The purchase of agricultural land for use as rural estates is one of the most pressing problems facing the agricultural sector in Marin County because it often results not only in increased property values, making it hard for ranchers to compete with increased lease and purchase prices, but more importantly diminishes Marin County's agricultural heritage with every acre removed from production. The Poncia Ranch is situated on terrain ranging in elevation from near sea-level to over 740 feet along a ridgeline between Tomales Bay to the west and south, and three miles of Walker Creek along its northern boundary (Exhibit 2). In addition to spectacular panoramic views of Tomales Bay and the surrounding rural settings of western Marin County, it offers the solitude often sought by estate buyers (Exhibit 3). Its setting and size, and proximity to Novato, Petaluma, Santa Rosa and San Francisco, make the property highly desirable, and easily targeted, for purchase by an estate buyer or developer.

The purchase of a conservation easement over the Poncia Ranch will accomplish many goals: conserve an additional 750 acres for agricultural uses and connect to three MALT-protected ranches; prevent subdivision; preserve the agricultural character of western Marin county by allowing a longtime rancher to continue to operate in an area that is highly threatened for conversion to estates; preserve the aesthetic scenic value of western Marin around Tomales Bay; and protect the natural resources and water quality of Walker Creek which is a major tributary to Tomales Bay and an important salmon and steelhead stream. It is expected that the conservation easement, which is currently being negotiated, will include a Restricted Area over approximately 64 percent of the property. Within the Restricted Area, development of grazing related improvements, such as fencing, water impoundments, and water troughs, will be prohibited on steep slopes without prior approval by MALT. The Restricted Area will also encompass the creek on the property and access by cattle to the creek area will be limited during the wet months. The easement would allow for creek restoration in the future.

While still in draft form, the proposed easement will comply with the easement standards adopted by the Conservancy on May 24, 2007 (the "easement standards"). In particular, the easement will require that a baseline report and monitoring plan that are consistent with the easement standards be prepared and approved by the Conservancy prior to close of escrow, and the easement will contain all essential provisions required by the easement standards.

In addition to protecting the valuable resources of Walker Creek, other specific provisions of the proposed easement would limit development of the property to one residence and an associated garage, each with a reasonable maximum square footage, and prohibit subdivision of the land. The easement would also prohibit recreational off-road vehicle riding; restrict tree harvesting or removal except for use as firewood for onsite heating and to remove diseased trees for safety reasons; generally prohibit dumping of wastes, refuse, or debris, except organic matter for agricultural uses; bar practices that cause soil degradation or reduced water quality; restrict surface alteration or excavation; and prohibit permanent separation of water rights from the property. The protection of Walker Creek by limiting grazing and other activities affecting the

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creek would have a direct result of added protection of Tomales Bay, an EPA-listed impaired water body.

### **Site Description:**

The Poncia Ranch is a 750-acre cattle and heifer ranch located in a rural area of west Marin on the east side of Tomales Bay, a few miles south of the town of Tomales, on Highway 1. The property has expansive views of Tomales Bay and beyond to the Pacific Ocean, and across western Marin county. Tomales Bay is one of California's most unspoiled natural resources, offering a wide variety of recreational and rural activities, to an ever increasing number of local residents and tourists.

The ranch ranges in elevation from near sea-level at its western boundary to over 740 feet along a ridgeline. The ranch consists of two legal parcels. One parcel contains grazing lands, a family homestead, two additional residences, ranching outbuildings, and out-of-use dairy-related buildings and equipment. The other contains open grassland used for grazing. Access to the property is across an adjacent property via 1.5 miles of gravel road, and is secured by an easement.

The property is bordered by MALT-protected lands on its northwest, eastern and a portion of its western boundaries. Three miles of Walker Creek, a perennial major tributary to Tomales Bay, runs along its eastern border.

Walker Creek supports salmon and steelhead populations, species that are in decline regionally and state-wide. Most of the surface water draining from the ranch enters Walker Creek. The remaining surface water runoff flows overland across the ranch and adjacent property directly to Tomales Bay. Due to impaired water quality that threatens habitat for endangered fishes, reptiles and migrating birds, Tomales Bay has long been recognized by local, state, and federal agencies as deserving of a high level of protection. Many threatened and endangered species inhabit the watershed, including California freshwater shrimp, coho salmon and steelhead trout. In 1981, Tomales Bay became a part of the Gulf of Farallones National Marine Sanctuary, one of a few such marine sanctuaries in the state. It supports large numbers of wintering and migrating shorebirds, making it a significant habitat to preserve and protect from degradation. A conservation easement would prevent subdivision of the property, and prescribe appropriate protective land management practices eliminating the threat of reduced scenic value and increased surface runoff that results from development and protect the open space of west Marin to maintain its rural setting and ranching heritage.

**Project History:** MALT's agricultural conservation easement program is part of an overall effort to preserve Marin County's agricultural land. Forty percent, or 120,000 acres, of Marin County's privately owned land is used for agriculture. Of the agricultural lands, approximately 32 percent, or approximately 38,000 acres, is protected forever by agricultural conservation easements held by MALT. MALT purchased its first conservation easement in 1983, and now holds 58 agricultural conservation easements.

The Conservancy has a history of interest and involvement in protecting, restoring, and enhancing the agricultural and natural resource values of west Marin. Over the past 20 years, the Conservancy has granted \$6,577,500 to MALT resulting in the protection of 8,390 acres of agricultural lands with significant habitat and natural resource protection elements.

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Other west Marin County agriculture projects in which the Conservancy has been involved include the 1989 Conservancy study entitled “Evaluation of Agricultural Land Trusts” in which MALT was acknowledged as a successful, competent 501(c)(3) nonprofit organization that had met all the goals required by the Conservancy’s previous grants, and grants to assist with riparian corridor fencing on several ranch properties.

Additionally, the Conservancy has invested in improving the Walker Creek watershed and as such has been involved in projects that affect Walker Creek water quality. In 2001, the Conservancy funded the development of a coordinated permit application for ranchers to utilize to carry out projects on their property that would benefit habitat and water quality entering Walker Creek. In 2004, the Conservancy provided \$600,000 to the Marin County Resource Conservation District to implement that permit program.

**PROJECT FINANCING:**

Coastal Conservancy	\$750,000
Moore Foundation	750,000
Natural Resource Conservation Service	<u>500,000</u>
<b>Total Project Cost</b>	<b>\$2,000,000</b>

The proposed funding source for the Conservancy’s contribution is Proposition 40, the “California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Act of 2002”. Proposition 40 funds may be used for the acquisition and protection of land and water resources in accordance with the provisions of the Conservancy’s enabling legislation (Public Resources Code Section 5096.650). This project is consistent with Proposition 40 in that it will preserve open space and farmland that is threatened by development and protect critical coastal resources by reducing or controlling surface runoff to Tomales Bay via Walker Creek. As discussed in detail below, the project is also entirely consistent with Chapter 4.5 of the Conservancy’s enabling legislation. Finally, the proposed project is appropriate for Proposition 40 grant funding priority, since it includes a substantial commitment of matching funds (Public Resources Code §5096.651).

In addition to Conservancy funding, MALT has secured a grant for \$500,000 from the Farm and Ranch Land Protection Program, administered by the U.S. Department of Agriculture’s Natural Resource Conservation Service, and has been invited by the Gordon and Betty Moore Foundation to apply for to apply for a grant to assist with the acquisition of the easement; MALT intends to request \$750,000 from the Moore Foundation.

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

The proposed project is undertaken pursuant to Chapter 4.5 of Division 21 of the Public Resources Code (Sections 31160-31165) which authorizes the Conservancy to undertake projects and award grants in the nine-county San Francisco Bay Area to public and private agencies and organizations.

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Consistent with §31162, the proposed agricultural conservation easement is located in Marin County, one of the nine bay-area counties, and will help to achieve several of the primary goals of the San Francisco Bay Area Conservancy Program by protecting open space, scenic areas, and wildlife habitats (§31162(b)), and assisting with the implementation of the Marin County General Plan (§31162(c)). The Marin County General Plan includes a specific policy supporting the acquisition of perpetual agricultural conservation easements. Acquisition of an agricultural conservation easement on the Poncia property will ensure that the open space character of this property will be forever protected.

In addition, the project satisfies all of the five criteria for determining project priority under §31163(c), as follows: 1) the project serves a multi-jurisdictional constituency, since it will preserve open space and scenic areas for the enjoyment of both local residents and visitors who come from across the region and the nation to the area in which the project is located; 2) the project can be implemented in a timely fashion: once funded, the easement acquisition is expected to occur within three months; 3) in the event the project is not implemented promptly, the opportunity for completion of the purchase of the property and the associated grant of the easement may be lost; 4) the Conservancy funding for the easement acquisition is matched by federal FRPP funds granted to MALT and private funds; and 5) the project is fully consistent with and supported by adopted local plans, including the *County of Marin, Unit II (Northern Marin) Local Coastal Plan* as described in the Consistency with Local Coastal Program Policies below.

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

Consistent with **Goal 7, Objective A**, the proposed project will increase by 750 acres the acreage of agricultural conservation easements over key coastal farmlands.

Consistent with **Goal 12, Objective A**, the proposed project will increase by 750 acres the acreage of farmland protected from urban encroachment.

### **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:** State Senator Carole Migden, State Assemblyman Jarred Huffman and Marin County Supervisor Steve Kinsey support this project. See Exhibit 4 for their letters of support.

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4. **Location:** The proposed easement acquisition is located south of the town of Tomales in western Marin County, within the jurisdiction of the San Francisco Bay Area Conservancy Program.
5. **Need:** MALT has secured a significant amount of funding toward the project. However, there remains a shortfall of just over 37 percent of the purchase price. And, although there is an agreement between the property owners for the purchase by Mr. Poncia unless he is able to complete the deal by the end of 2007 his opportunity would be lost. A grant of Conservancy funds for the MALT easement will allow Mr. Poncia to purchase the property and result in its perpetual protection of the land for agricultural purposes.
6. **Greater-than-local interest:** A vital part of the North Bay greenbelt, agricultural land in Marin County provides open space, scenic vistas, and wildlife habitat. In addition to serving the residents of Marin County by helping to preserve the agricultural history and protecting habitat values, this project serves local area travelers and tourists that visit west Marin to enjoy its unspoiled landscape, and its incredible scenic vistas. Preserving the natural resources of this site and protecting it from development furthers these values.

### Additional Criteria

7. **Urgency:** The purchase agreement between Mr. Poncia and his three co-owners expires on December 31, 2007. If Mr. Poncia is unable to purchase the property it would be sold on the open market with no guarantees for its future uses.
8. **Resolution of more than one issue:** The purchase of a conservation easement on the Poncia Ranch would satisfy the sale agreement between Mr. Poncia and his co-owners, protect it from sale on the open market for uncertain future uses, preserve additional precious agricultural lands in western Marin County, and protect the significant marine resources of Tomales Bay.
9. **Leverage:** See the “Project Financing” section above. The \$750,000 of Conservancy funds for the easement acquisition will be matched by \$750,000 in funds from the Gordon and Betty Moore Foundation and \$500,000 in federal FRPP funds.
12. **Readiness:** MALT and Eugene Poncia have an agreement to purchase the easement before December 31, 2007. Agreements are in place, the appraisal is completed and approved, and all parties are staged to carry out the transaction. Conservancy authorization of this project will enable MALT to proceed with the acquisition before its agreement with Mr. Poncia expires.
13. **Realization of prior Conservancy goals:** See the “Project History” section above.
14. **Cooperation:** This project is a cooperative effort among the Conservancy, MALT, and the landowners.

**CONSISTENCY WITH LOCAL COASTAL PROGRAM POLICIES:** The acquisition by MALT of a conservation easement on the Poncia Ranch is consistent with the *County of Marin, Unit II (Northern Marin) Local Coastal Plan (LCP)*. The local coastal program policies of the

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LCP include alternative methods of preserving agricultural land (found at Agriculture Chapter, Item 7), indicating “[T]he County strongly supports the objectives of the Marin Agricultural Land Trust to protect agricultural lands through . . . purchase . . . of conservation easements on agricultural lands.” By acquiring a conservation easement over the Poncia Ranch, this project will achieve the above stated objectives.

**COMPLIANCE WITH CEQA:** Acquisition of a conservation easement over the Poncia Ranch property is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) under 14 Cal. Code of Regulations Section 15325 because it involves the transfer of ownership interests in land to preserve open space and to allow continued agricultural use of the property. Staff will file a notice of exemption upon approval of the project.