



Legislation Text

File #: 2020-0749, **Version:** 1

To: The Board of Supervisors of Sonoma County Regional Parks and the Board of Directors of the Sonoma County Agricultural Preservation and Open Space District

Department or Agency Name(s): Sonoma County Regional Parks, Sonoma County Agricultural Preservation and Open Space District

Staff Name and Phone Number: Steve Ehret, (707) 565-1107; Louisa Morris, (707) 565-1537

Vote Requirement: 4/5th

Supervisorial District(s): Fifth District

Title:

Torr acquisition in the Dutch Bill Creek watershed for a future regional park and open space preserve

Recommended Action:

Adopt a resolution of the Board of Supervisors to:

- A) Accept fee title and execute certificate of acceptance of fee interest;
- B) Execute a Conservation Easement, Recreation Conservation Covenant, and Irrevocable Offer of Dedication benefiting the Agricultural Preservation and Open Space District;
- C) Authorize the Director of Regional Parks to execute a funding agreement with the Agricultural Preservation and Open Space District;
- D) Authorize and direct the Chair to execute and record an Offer of Dedication benefiting the State Coastal Conservancy;
- E) Authorize the Director of Regional Parks, in consultation with County Counsel, to make technical, non-substantive changes in the Conservation Easement, Recreation Conservation Covenant, Offers of Dedication and other closing documents and to execute any other documents necessary to complete this transaction;
- F) Authorize recordation of all instruments necessary to accomplish the transaction, and directing the Director of Regional Parks, in consultation with County Counsel, to take all other actions necessary or appropriate to accept fee title to the Property and to establish a permanent conservation easement and recreation covenant over the property; and
- G) Approve the grant funds of \$500,000 from the State Coastal Conservancy for the Dutch Bill Creek Parkway acquisition and authorize the Director to execute all necessary documents with the State Coastal Conservancy to accept the grant funds.

Adopt a resolution of the Board of Directors of the Sonoma County Agricultural Preservation and Open Space District (Ag + Open Space) to:

- A) Determine that a Conservation Easement and Recreation Conservation Covenant over the portion of the Dutch Bill Creek Property west of Main Street in Monte Rio are consistent with the 2020 Sonoma County General Plan and the Sonoma County Agricultural Preservation and Open Space District's Expenditure Plan;
- B) Authorize up to \$2,100,000 and escrow costs to fund the acquisition of the portion of the Dutch Bill Creek property west of Main Street in Monte Rio;

- C) Authorize the President to execute a Conservation Easement and Recreation Conservation Covenant over the property, and associated certificates of acceptance;
- D) Consenting to the recordation of an irrevocable offer of dedication in favor of Ag + Open Space pursuant to Public Resources Code §5565.5;
- E) Dedicating the Conservation Easement interest for park and open space purposes pursuant to Public Resources Code section 5540;
- F) Authorize and direct the Ag + Open Space General Manager to execute a funding agreement with the County of Sonoma, pursuant to which up to \$250,000 funding for Initial Public Access and Operation and Maintenance of the portion of the Dutch Bill Creek acquisition funded by Ag + Open Space;
- G) Acknowledging the filing of a notice of exemption in compliance with the California Environmental Quality Act; and
- H) Authorize recordation of all instruments necessary to accomplish the transaction, and directing the General Manager, in consultation with County Counsel, to take all other actions necessary or appropriate to complete this transaction and establish a permanent Conservation Easement and Recreation Conservation Covenant.

(4/5th Vote Required.)(Fifth District)

Executive Summary:

Regional Parks has negotiated a purchase agreement to acquire approximately 515 acres south of Monte Rio in the lower Dutch Bill Creek watershed, subject to Board of Supervisors approval. The intention is to create a new, as yet unnamed, regional park and open space preserve in an area relatively lacking in public park and open space preserve amenities and trails. Regional Parks has brought together various funding sources for this \$3.9 million acquisition including \$2.1 million from Ag + Open Space, \$954,028 recommended by State Parks from the Land and Water Conservation Fund, \$500,000 from State Coastal Conservancy, \$300,000 in Parks Measure M funds, and \$45,972 in Area 3 Park Mitigation Fees. Ag + Open Space is also contributing \$250,000 toward initial public access and for the first three years of operation and management.

Discussion:

The 515.45-acre Torr Property in the Dutch Bill Creek watershed (“Property”) is located just south of the economically disadvantaged community of Monte Rio. The Property is bisected by Bohemian Highway, Main Street and Dutch Bill Creek, which all extend southerly from the Russian River towards the community of Occidental. Access to the Property is from Bohemian Highway and Main Street as well as from Tyrone Road at the south end of the Property’s western section. Interior access is from a variety of trails and older seasonal logging roads throughout the undeveloped Property. The Property includes approximately 1.1 miles of Dutch Bill Creek and 2 miles of tributary watercourses. The Property’s uplands include redwood/Douglas fir forest formerly managed for timber production. Over 89% of the property is forested (75% redwood); the remaining upland habitats are characterized by oak woodland and serpentine-influenced chaparral.

The Property is located on Main Street and Bohemia Highway, just south of Monte Rio and on both sides of Dutch Bill Creek, in rural Western Sonoma County (*see Attachment 4*). Acquisition of this Property will protect open space, habitat, natural floodplain, and water quality and provide an opportunity to create a new regional park and future regional parkway with recreational trails in western Sonoma County.

The Dutch Bill Acquisition Project (“Project”) is a critical first step in the decades-long planning for a trail connecting Occidental to Monte Rio. This larger parkway project includes planning and acquisition for a 5.5-

mile trail from Occidental to Monte Rio along or parallel to the historic North Pacific Coast Railroad right-of-way. This trail would create a safe and scenic route within the redwood forest for residents and visitors to access communities and places of interest such as Occidental, Camp Meeker, Tyrone, Monte Rio, Monte Rio Creekside Park, vacation resorts, beaches, and the planned Russian River Trail.

The Dutch Bill Creek Trail was described as a project in the 1979 Sonoma County General Plan. The Dutch Bill Creek Trail project was carried over into the 1989 General Plan and identified in subsequent documents such as the 1997 Sonoma County Bikeways Plan and identified as project 96 in the adopted 2010 Bicycle and Pedestrian Plan. Following Monte Rio Park & Recreation District's successful completion and operation of Creekside Park in 2014, Sonoma County Regional Parks focused on connecting the community of Monte Rio to areas south with the planned trail and began discussions with the Torr family. Initial discussions with the Torr family about a trail easement evolved into protecting the greater property as a Regional Park with a bikeway and connecting trails. In 2018, Regional Parks entered into negotiations with the Torr family as willing sellers.

Sonoma County Regional Parks (Parks) proposes the acquisition of this property that is currently owned by the Torr Family. The Property includes the following eight Assessor's Tax Parcels: 096-010-010-000, 096-010-008-000, 096-080-005-000, 096-010-003-000, 096-020-003-000, 096-030-004-000, 096-040-005-000 and 096-050-007-000.

The Sonoma County Agricultural Preservation and Open Space ("Ag + Open Space") proposes to contribute funds towards the acquisition of APNs 096-010-003 and 096-010-008, which consist of 315.88 acres of redwood-Douglas fir forest (see Attachment 5). As a condition of Ag + Open Space's participation in this acquisition, Ag + Open Space would acquire a Conservation Easement and Recreation Conservation Covenant over these parcels prior to close of escrow.

PROPERTY CHARACTERISTICS/PROJECT SIGNIFICANCE

The Property drains into Dutch Bill Creek. The neighborhood consists of rural residential development (Monte Rio, Tyrone) and working forestlands. Adjacent landowners include Monte Rio Recreation and Park District (Creekside Park), Sweetwater Springs Water District and Mendocino Redwood Company to the north and west, with Bohemian Grove and LandPaths (Bohemia Ecological Preserve) to the east. South and north of the property are smaller private residential properties in Monte Rio and Tyrone. Sonoma Coast State Park (Willow Creek) is to the west, with Mendocino Redwood Company land between the subject property and the State Park. Conservation of the Property will create over 1,300 acres of contiguous protected lands.

The terrain on the Property is generally quite steep (slopes greater than 30%) with limited flat areas near the Dutch Bill Creek floodplain and Main Street, as well as at the top of the ridge. Elevations range from approximately 100 feet near Dutch Bill Creek to 1,100 feet at the ridgetop. There are redwood and Douglas fir timber resources on the Property and logging has occurred in the past, most recently in 1998. There is an extensive network of dirt/gravel logging roads on the Property. While there are no buildings or structures on the Property, there are dirt roads, gates, and remnant fencing.

The Conservation Lands Network classifies the Property as part of the Sonoma Coast Range landscape unit, with 74% (234 acres) considered "essential" and 26% (82 acres) "contributing" to vital connecting habitat for wildlife. One of three identified wildlife corridors in Sonoma County runs the length of the Property. The Property is within an identified critical habitat linkage connecting lands from western Marin County to Lake

Sonoma. While the Property by itself is not a “Large Landscape Block” (an area of high ecological integrity that builds upon an existing regional conservation network), when combined with other protected lands in the area, it contributes to a Large Landscape Block. Dutch Bill Creek is located on the property and is a perennial tributary to the Russian River and is known spawning habitat for both steelhead trout and coho salmon.

There are scenic public views on either side of Main Street, which is adjacent to the Property, offering a scenic drive through redwood forest along Dutch Bill Creek. Bohemian Highway is a designated scenic corridor that also offers views of the Property.

PROJECT STRUCTURE

This Project includes acquisition of eight parcels totaling 515.45 acres. Two parcels are west of Main Street, four parcels are along Dutch Bill Creek between Main Street and Bohemian Highway, and two parcels are east of Bohemian Highway.

Ag + Open Space is contributing \$2.1 million towards the purchase of the two parcels west of Main Street/Bohemian Highway. These parcels include 315.88 acres of the 515.45 acres that Sonoma County Regional Parks is acquiring from the Torr family. Protection of these parcels is of primary interest to Ag + Open Space in that they contain features that further multiple goals and objectives including; significant coastal forest, scenic landscapes, a greenbelt outside of Monte Rio, and a potential to create trail connections from Monte Rio to the coast. Ag + Open Space will hold a Conservation Easement and Recreation Conservation Covenant over this 315.88 acre-portion of the new Regional Park and Open Space Preserve. The Conservation Easement will protect the Property’s natural and scenic resources by restricting subdivision and development of the land, as well as commercial timber harvest.

The Conservation Easement will allow public recreational and educational use compatible with natural resource protection according to a Master Plan, which Regional Parks will develop subject to Ag + Open Space approval. Low impact camping, hiking, bicycling, horseback riding, picnicking, nature study, and other such uses are permitted by the Conservation Easement. The easement has an overall cap on the amount of structures and improvements that allows trails and associated recreational improvements such as benches, restrooms, and signs; and one ranger residence and two public parking areas within an identified Building Envelope. The Conservation Easement prohibits commercial timber harvest but allows forest management, primarily to reduce fuel loads and promote late seral forest conditions. Best management practices will protect riparian areas and the integrity of natural resources on the property.

Ag + Open Space will also receive a Recreation Conservation Covenant over the portion of the Dutch Bill Creek acquisition west of Main Street, obligating the County to provide public access in perpetuity. Pursuant to the Recreation Conservation Covenant, this portion of the Dutch Bill Creek acquisition will be open to the general public for outdoor recreational and educational use. In connection with the Recreation Conservation Covenant, the County will record an irrevocable offer of dedication allowing transfer of the Dutch Bill Creek property west of Main Street back to Ag + Open Space should, in the future, Parks, for any reason, be unable to keep the Property open to the public.

State Parks has recommended \$954,028 in Land and Water Conservation Funds contributing to the purchase of the entire Property. Obligations with this federal funding protect the property for outdoor recreation in perpetuity.

The State Coastal Conservancy is contributing \$500,000 toward the purchase of the entire Property. A resolution accepting funds is required and is included in these Board actions. An Offer of Dedication benefiting the State Coastal Conservancy will be required at closing for the preservation of the public's interest in the Property.

The remainder of the acquisition funding includes \$300,000 in Parks Measure M funds and \$45,972 in Area 3 Park Mitigation Fees

APPRAISAL AND FISCAL OVERSIGHT COMMISSION APPROVAL

Appraiser Chris Bell prepared a full narrative appraisal of the Dutch Bill Creek properties for Regional Parks, with a date of valuation of February 3, 2020. The appraiser concluded the estimated market value of the property was \$4,125,000. In the Purchase Agreement the Torr Family ("Seller") stated that the purchase price of the property is \$3.9 million. The Seller further stated that if the appraised value exceeds this purchase price, Seller will consider the difference as a gift to the County of Sonoma and/or the Sonoma County Agricultural Preservation and Open Space District.

Ag + Open Space staff and MAI appraiser Howard Levy reviewed the appraisal and concluded it met Ag + Open Space Appraisal Standards and Guidelines. The Fiscal Oversight Commission (FOC) reviewed and accepted the appraisal at its April 20, 2020 meeting (Resolution # 2020-002). The FOC found that Ag + Open Space is not paying more or receiving less than the fair market value for the conservation easement and recreation covenant that will be conveyed to Ag + Open Space as a condition of the Grant to Sonoma County Regional Parks. Ag + Open Space's up to \$2.5 million contribution meets the fair market value standard.

PURCHASE AGREEMENT AND PURCHASE PRICE

The landowners and Regional Parks have negotiated a purchase price for the Property of \$3,900,000, contingent upon Board of Supervisors approval and standard contingencies.

Funders include:

- Ag + Open Space: \$2.1 million (for portion of property west of Main Street)
- Land and Water Conservation Fund: \$954,028
- State Coastal Conservancy: \$500,000
- Parks Measure M: \$300,000
- Park Mitigation Fees Area 3: \$45,972

FUNDING: INITIAL PUBLIC ACCESS AND OPERATIONS AND MAINTENANCE FUNDING REQUEST

Regional Parks has requested funds from Ag + Open Space (see *Attachment 6*) pursuant to Ag + Open Space's Initial Public Access and Operations and Maintenance Policy, which allows Ag + Open Space to provide funding, for a period of three years after transfer, to operate and maintain as well as to assist in providing initial public access on recreational properties purchased with the open space sales tax.

Regional Parks has requested \$250,000 to assist with planning for and construction of initial public access improvements on the Property, specifically for park operations & maintenance, capital expenses associated with opening the property to the public, and public outings to provide initial public access.

Initial Public Access and Operations and Maintenance Fund Status

Per the Expenditure Plan, Ag + Open Space can expend up to 10% of its sales tax revenue on initial public access and operations and maintenance costs (IPAO&M). For FY 20-21, the unadjusted beginning IPAO&M fund balance was \$10,319,583. It is anticipated that Ag + Open Space will receive approximately \$2,231,055 in sales tax revenue in this new fiscal year towards eligible IPAO&M costs for FY 20-21.

Ag + Open Space has seven existing IPAO&M agreements with recreational partners with available balances that total \$2,907,650. The District is in the process of developing IPAO&M contracts for an additional amount of \$1,899,500. In addition, Ag + Open Space anticipates requests for IPAO&M funds for at least one additional property this fiscal year, McCormick Ranch.

CONFORMANCE WITH ADOPTED PLANS

The trail connections to and through Monte Rio are a central part of County plans for a bikeway and trail network for West Sonoma County. This acquisition is the next step in the decades-long planning for a trail connecting Occidental to Monte Rio. This Property includes approximately 0.8 miles of the planned Dutch Bill Creek Bikeway. The larger trail project includes planning and acquisition for a 5.5-mile trail from Occidental to Monte Rio along or parallel to the historic North Pacific Coast Railroad right-of-way. This trail would create a safe and scenic route within the redwood forest for residents and visitors to access communities and places of interests such as Occidental, Camp Meeker, Bohemia Ranch, Tyrone, Monte Rio, Monte Rio Creekside Park, vacation resorts, beaches, and the planned Russian River Trail.

The Dutch Bill Creek Trail was described as a project in the 1979 Sonoma County General Plan. The project was carried over into the 1989 General Plan and identified in subsequent documents such as the 1997 Sonoma County Bikeways Plan and identified as project 96 in the adopted 2010 Bicycle and Pedestrian Plan.

Sonoma County General Plan 2020

The project furthers several goals, policies, and objectives in Sonoma County's General Plan 2020, specifically in the Land Use, Open Space and Resource Conservation, Agricultural Resource, and Water Resources Elements as noted below:

- Identify important open space areas between and around the county's cities and communities. Maintain them in a largely open or natural character with low intensities of development. (Goal LU-5)
- Protect Sonoma County's water resources on a sustainable yield basis that avoids long term declines in available surface and groundwater resources or water quality. (Goal LU-8)
- The uses and intensities of any land development shall be consistent with preservation of important biotic resource areas and scenic features. (Goal LU-10)
- Encourage conservation of undeveloped land, open space, and agricultural lands, protection of water and soil quality, restoration of ecosystems, and minimization or elimination of the disruption of existing natural ecosystems and flood plains. (Policy LU-11f)
- Preserve the visual identities of communities by maintaining open space areas between cities and communities. (Goal OSRC-1)
- Retain the largely open, scenic character of important Scenic Landscape Units. (Goal OSRC-2)
- Identify and preserve roadside landscapes that have a high visual quality as they contribute to the living environment of local residents and to the County's tourism economy. (Goal OSRC-3)
- Preserve and maintain views of the night time skies and visual character of urban, rural, and natural areas, while allowing for nighttime lighting levels appropriate to the use and location. (Goal OSRC-4)

- Preserve the unique rural and natural character of Sonoma County for residents, businesses, visitors and future generations. (Goal OSRC-6)
- Protect and enhance the County's natural habitats and diverse plant and animal communities. (Goal OSRC-7)
- Identify and protect native vegetation and wildlife, particularly occurrences of special status species, wetlands, sensitive natural communities, woodlands, and areas of essential habitat connectivity. (Objective OSRC-7.1)
- Maintain connectivity between natural habitat areas. (Objective OSRC-7.5)
- Support acquisition of conservation easements or fee title by the Sonoma County Agricultural Preservation and Open Space District (SCAPOSD) of designated Biotic Habitat Areas. (Policy OSRC-7f)
- Protect and enhance Riparian Corridors and functions along streams, balancing the need for agricultural production, urban development, timber and mining operations, and other land uses with the preservation of riparian vegetation, protection of water resources, flood control, bank stabilization, and other riparian functions and values. (Goal OSRC-8)
- Establish a countywide park and trail system that meets future recreational needs of the County's residents while protecting agricultural uses. (OSRC-17)
- Establish a Bikeways Network that provides safe and convenient recreational opportunities for all bicyclists and enhances Sonoma County's reputation as a world-class bicycling destination. (OSRC-18)
- Protect, restore, and enhance the quality of surface and groundwater resources to meet the needs of all reasonable beneficial uses. (Objective WR-1)

Connecting Communities and the Land

The Project furthers objectives in Ag + Open Space's acquisition plan in multiple categories as noted below:

- **Greenbelts and Scenic Hillside**s, specifically to protect lands with prominent natural features that contribute to the unique identity of a community, protect lands visible from highly traveled roads that contribute to the rural character and sense of place, protect lands that have unique open space features that are essential to preserving the county's distinct visual character.
- **Recreation and Educational Use**, specifically to expand parks and preserves that protect the county's unique natural habitats, scenic areas and other open space values of regional importance.
- **Water, Wildlife and Natural Areas**, specifically to preserve natural systems and lands that provide viable habitat linkages for wildlife.

Ag + Open Space's Expenditure Plan

The acquisition is consistent with the Ag + Open Space's Expenditure Plan, specifically the purchase of fee interests for outdoor public recreation where the public use would not be inconsistent with open space designations such as protecting areas of biotic significance and high scenic quality. In addition, the IPAO&M funding is consistent with the intent of Paragraph 6 of Ag + Open Space's Expenditure Plan.

ESCROW/CLOSING

Close of escrow for the acquisition of the property is planned for September 1, 2010 with the possibility of the Seller and Regional Parks mutually agreeing to extend to October 1, 2020.

CEQA

The following CEQA exemptions apply to Ag + Open Space's acceptance of the Conservation Easement and

Recreation Conservation Covenant: Guidelines §§ 15061(b)(3)-Common Sense Exemption; 15313-Wildlife Conservation Exemption; 15316-Acquisition of Land to Create Park; 15317-Open Space Contracts or Easements; and Public Resources Code section 21080.28. The purpose of the transaction is to preserve the natural condition of the property including plant and animal habitats; restoration of natural conditions including plant and animal habitats; and preservation of open space or lands for park purposes, making it exempt from CEQA.

On February 10, 2020, Sonoma County Regional Parks found the acquisition project statutorily exempt from CEQA under Public Resources Code (PRC) §21080.28; CEQA Guidelines §15260-15285. Pursuant to PRC §21080.28(a) the acquisition of this property is exempt from CEQA because the purpose of the acquisition and granting of a conservation easement is to preserve the land for park purposes as specified in subsection (a)(1)(F) while restoring the natural condition of the property including plant and animal habitats and preservation of open space per subsection (a)(1)(A).

Prior Board Actions:

March 24, 2020 - Resolution 20-0101 declaring intention to purchase Torr property for public park purposes.
 February 4, 2020 - Resolution 20-0038 authorizing the application for a grant from the Land and Water Conservation Fund for this Dutch Bill Creek acquisition.
 June 11, 2009 - The Board of Supervisors received the County of Sonoma Capital Project Plan 2019-2024, including subject "Dutch Bill Creek Bikeway" (Project RP14027).

FISCAL SUMMARY

Expenditures	FY 19-20 Adopted	FY20-21 Projected	FY 21-22 Projected
Budgeted Expenses		\$2,345,972	
Additional Appropriation Requested		\$1,554,028	\$100,000
Total Expenditures		\$3,900,000	\$100,000
Funding Sources			
State Coastal Conservancy		\$500,000	
Federal LWCF		\$954,028	
Fees/Other		\$2,445,972	\$100,000
Use of Fund Balance			
Contingencies			
Total Sources		\$3,900,000	\$100,000

Narrative Explanation of Fiscal Impacts:

Fiscal Impacts to County Regional Parks Budget: The total cost of acquisition of the Torr Property is \$3.9 million, of which the county will be contributing \$1.8 million in County funding and grants. County funding includes \$300,000 in Parks Measure M and \$45,972 in Area 3 Park Mitigation Fees in the FY 20-21 Adopted Budget. \$954,028 in federal Land and Water Conservation Fund and \$500,000 in State Coastal Conservancy are requested as additional appropriations. The \$2 million portion of the Ag + Open Space contribution is included in the Adopted FY 20-21 budget and \$100,000 is requested as an additional appropriation for

acquisition in FY 20-21. The \$250,000 Ag + Open Space contribution for initial public access planning and O&M funding includes requested \$100,000 appropriation in FY 21-22 and \$75,000 over two additional future fiscal years.

Fiscal Impacts to Ag + Open Space Budget: Ag + Open Space has adequate appropriations in its FY 20-21 budget for its \$2,100,000 acquisition and \$100,000 IPAO&M contributions. IPAO&M expenditures will be over Ag + Open Space's FY 20-21, 21-22, and 22-23, and will be eligible for Operations and Maintenance Fund classification. Appropriations will be made in the IPAO&M fund in those years to include this commitment.

Staffing Impacts:			
Position Title (Payroll Classification)	Monthly Salary Range (A-I Step)	Additions (Number)	Deletions (Number)

Narrative Explanation of Staffing Impacts (If Required):

None.

Attachments:

1. Resolution of County of Sonoma Board of Supervisors
2. Resolution of Agricultural Preservation and Open Space District Board of Directors
3. Resolution of County of Sonoma Board of Supervisors approving State Coastal Conservancy grant
4. General Plan 2020 Location Map
5. Dutch Bill Creek Site Map

Related Items "On File" with the Clerk of the Board:

1. Torr (Dutch Bill Creek) Conservation Easement
2. Torr (Dutch Bill Creek) Recreation Conservation Covenant
3. Certificate of Acceptance (Ag + Open Space) Conservation Easement
4. Certificate of Acceptance (Ag + Open Space) Recreation Conservation Covenant
5. Certificate of Acceptance (County)
6. IPAO&M Agreement (Ag + Open Space)
7. Notice of Exemption (Ag + Open Space)
8. State Coastal Conservancy Offer To Dedicate (County)