

14. Blue Creek, Humboldt and Del Norte Counties \$5,035,000.00

This proposal is to consider the allocation for a grant to Western Rivers Conservancy (WRC) for a cooperative project with the State Coastal Conservancy, the Wyss Foundation, and the Yurok Tribe (Tribe), to acquire 6,479± acres of land known as Blue Creek Phase 2B, for the protection of a mixed conifer forest property, including riparian corridors, salmonid streams, coastal watershed, and habitat linkages.

LOCATION AND SURROUNDING USES

The subject property (Property) is located along the eastern side of the Klamath River between the towns of Weitchpec and Klamath Glen in Del Norte and Humboldt Counties. The Property is privately owned and managed by Green Diamond Resource Company (GDRC).

The Property lies within the Klamath-Siskiyou bioregion, which is one of the most diverse in North America. Spanning more than 12 million acres, this bioregion of southwestern Oregon and northwestern California is recognized as an area of global botanical significance. One of just 200 ecoregions on the planet designated for special study and conservation, the Klamath-Siskiyou is home to wild salmon runs, old-growth forests, wild rivers, and more than 3,500 plant species – 220 of which are found nowhere else on Earth.

The Property lies in a key location to maintain and restore habitat connectivity in the North Coast Ecoregion. Continuous with Six Rivers, Klamath, Shasta-Trinity and Mendocino National Forests on the east, and Redwood National and State Parks on the coast, the project area provides one of the best linkage opportunities between coastal and interior forests.

The portion of the Property is within the lower Blue Creek watershed. Approximately 80% of this watershed is managed by the U.S. Forest Service under the Six Rivers National Forest Plan. The majority of the upper watershed is protected as part of the Siskiyou Wilderness Area. Blue Creek is also designated as a key watershed under the Northwest Forest Plan and the Six Rivers National Forest Plan.

The acquisition of Phase 2B will complement previous purchases of an adjacent 22,495± acres (Phase 1) and 8,494± acres (Phase 2A) of land from GDRC, completed by Western Rivers Conservancy and the Tribe in 2011 and 2013 respectively. The proposed acquisition will also accomplish priority goals outlined in several state and federal plans including the California Department of Fish and Wildlife's (CDFW) Land Acquisition Evaluation, WCB's Strategic Plan, WCB's Forest Conservation Program, the Northwest Forest Plan and the Six Rivers Forest Plan. In addition, the Nature Conservancy has identified the Blue Creek

watershed as an Ecoregional Priority.

PROJECT DESCRIPTION

The majority of the Property is mountainous, remote, and undeveloped except for unpaved logging access roads and an old abandoned cabin near the confluence of Blue Creek and the Klamath River; it is almost wholly forested, primarily with Redwood and Douglas fir, along with some western hemlock, cedar, and pine, as well as various hardwoods. The timber stands range from recently harvested areas with young plantations to very limited pockets of scattered individual old-growth trees. The preponderance of timber stands are 20 to 50 years of age. The land is owned by GDRC and has been managed for industrial forestry products for over 50 years.

Blue Creek, which runs through a portion of the Property, is the largest tributary of the Klamath River downstream of the Trinity River confluence. The creek drains 81,296 acres, and is steep and mountainous with moderate high channel confinement. Elevations in the Blue Creek watershed range from 40 feet at the mouth to 5,685 feet in the headwaters. The headwaters originate east of the Property in the Chimney Rock and Elk Valley area of the Siskiyou Wilderness at an elevation of 4,800 feet. The stream then flows southwesterly through approximately 3,798 acres of the Property to its confluence with the Klamath River. Blue Creek enters the Klamath River near river mile 16, about 24 miles below the confluence of the Trinity and Klamath Rivers. The lower portion of the Blue Creek watershed consists of gentle to moderately steep slopes with some alluvial flats and valley bottoms.

In addition to recovery of coho salmon, other species likely to benefit from protection of the Property include the following: fall Chinook salmon, winter run steelhead trout, coastal cutthroat trout, and Pacific lamprey as well as small numbers of spring Chinook, summer steelhead, and chum salmon. The project area is also important for several terrestrial species including federally and state listed species such as the northern spotted owl and marbled murrelet, and for several other species of conservation concern, such as the Humboldt marten and Pacific fisher.

WCB PROGRAM

Part of the proposed grant for this project is being considered under the WCB's Forest Conservation Program (Forest Program). Forest Program grant proposals are evaluated and selected for funding by WCB staff based on established criteria approved by the Board on November 17, 2007, and utilizing a peer review process involving biological and forestry expertise, including the CDFW. The Forest Program seeks to promote the ecological integrity and economic stability of California's diverse native forests through conserving, preserving and restoring productive managed forest lands, forest reserve areas, redwood forests and other forest types, including the conservation of water resources and natural habitats for native fish and wildlife and plants found on these lands. One of the primary

objectives of the Forest Program is the protection and conservation of working forests and productive managed forest lands. Selected projects promote the restoration and/or maintenance of the ecological integrity and economic stability of the property in the context of the surrounding landscape and regional economy.

The project is also being considered under the WCB's Land Acquisition Program (Acquisition Program). The Acquisition Program is administered pursuant to the Board's original enabling legislation, the "Wildlife Conservation Law of 1947" (Fish and Game Section 1300, *et seq.*), which authorizes WCB to acquire real property or rights in real property on behalf of CDFW, grant funds to other governmental entities or nonprofit organizations to acquire real property or rights in real property, and accept federal grant funds to facilitate acquisitions or subgrant these federal funds to assist with acquisitions of properties. Under the Acquisition Program, WCB provides funds to facilitate the acquisition of lands and interests in land that can successfully sustain or be restored to support wildlife and, when practicable, provide for suitable wildlife-oriented recreation opportunities. These activities are carried out in conjunction with the CDFW, which evaluates the biological values of property through development of a Land Acquisition Evaluation/Conceptual Area Protection Plan (LAE/CAPP). The LAE/CAPP is then submitted to CDFW's Regional Operations Committee (ROC) for review and, if approved, later transmitted to the WCB with a recommendation to fund.

Consistent with Goals A-1, A2, and A-4 (environmental protection and conservation) of the WCB Strategic Plan, the Property provides habitat for threatened and endangered species as well as assimilating additional habitat connectivity within the Blue Creek watershed. The Blue Creek project also invests in streams and watersheds supporting threatened and endangered salmonids and native fish assemblages. This project has been requested and is supported by CDFW.

MANAGEMENT OBJECTIVES AND NEEDS

The project will be funded, in part, with proceeds from a transaction utilizing New Markets Tax Credits available under Section 45D of the Internal Revenue Code of 1986, as amended (NMTC). The NMTC program, which is jointly administered by the Community Development Financial Institutions Fund of the U.S. Department of the Treasury and the Internal Revenue Service, uses federal tax incentives to help economically distressed communities attract private investment capital into operating businesses and real estate. A tax credit investor is able to claim a federal tax credit equal to 39 percent of its investment. The tax credit is claimed over a seven-year period, with five percent of the investment amount available in each of the first three years and six percent in each of the following four years. WRC will purchase the Property and, as part of the NMTC transaction (discussed further under Project Funding, below), sell it to Western Rivers Forestry (WRF). WRF plans to contract with the Tribe to manage the Property.

The Tribe currently manages approximately 45,000 acres of fee and Tribal trust

lands within and nearby the Yurok Reservation. The Tribe intends to manage the Property to enhance its tremendous fisheries values and safeguard this gateway to the cultural heart of the Yurok people. Its goals for the Property include eliminating clear cut harvesting and the use of herbicides; expanding protective riparian stream buffers; decommissioning excess roads, sequestering forest carbon; and implementing watershed, fisheries, and habitat restoration projects. The Blue Creek watershed will transition from the current even-aged management to an old growth preserve, using light-touch timber harvesting to accelerate a late successional forest. The Tribe's harvest will be miniscule compared to current allowed practices. This will eliminate clear-cutting impacts to anadromous fish habitats and reduce sources of fine sediment discharges. The remaining Property will be sustainably managed for long-term water quality and cultural resource protection while fostering the economic development of the Tribe and community members.

WRC intends to initiate a carbon sequestration project on the Property. Pursuant to a Credit Agreement entered into between WRC and the David and Lucille Packard Foundation (Foundation) to finance a portion of the Phase 2A purchase price, any net carbon revenues generated off the Property are encumbered to repay the indebtedness under the Credit Agreement. The WCB Grant Agreement requires that any net carbon revenues generated after the indebtedness to Foundation is repaid must be used for management and maintenance of the Property or, subject to the approval of WCB for other conservation purposes. An annual carbon report must be delivered to WCB and shall account for all carbon revenues received and disbursed in the previous calendar year.

TERMS

The Property has been appraised as having a fair market value of \$9,900,000.00. The appraisal has been reviewed by WCB staff, reviewed and approved by an independent appraiser hired by WCB staff, and reviewed and approved by the Department of General Services (DGS). The timber valuation portion of the appraisal has been reviewed and approved by a registered professional forester. The independent appraisal review was posted on the WCB's website at least thirty days prior to the November 20, 2014 WCB Board meeting. The terms and conditions of the WCB grant provide that staff of the WCB must review and approve all title documents, appraisals, preliminary title reports, documents for purchase and sale, escrow instructions, financing documents and instruments of conveyance prior to disbursement of funds directly into the escrow account established for the acquisition. In the event of a breach of the grant terms, the WCB can require the grantee to encumber the Property with a conservation easement in favor of the State or another entity approved by the State and seek reimbursement of funds.

PROJECT FUNDING

The proposed funding breakdown for the project is as follows:

Wildlife Conservation Board	\$5,000,000.00
State Coastal Conservancy (pending)	\$2,000,000.00
Wyss Foundation	\$1,000,000.00
New Markets Tax Credit Financing	<u>\$1,900,000.00</u>
Total Purchase Price	\$9,900,000.00
Other Project-Related Costs	\$35,000.00
TOTAL WCB ALLOCATION	\$5,035,000.00

It is estimated that \$35,000.00 will be needed to cover project-related administrative costs, including DGS appraisal review.

Approximately 20 percent of the purchase price of the Property will be provided by NMTC financing. Use of NMTC financing requires a specific structure for the transaction; for the tax credit period (up to seven years) the Property must be owned by a special-purpose nonprofit organization created specifically for the project and known as a Qualified Active Low-Income Community Business (QALICB). In addition, as part of the NMTC financing the Property will be encumbered by two deeds of trust securing short-term loans to the QALICB.

WRF will be the QALICB for this project. WRF will be a party to the WCB Grant Agreement as Successor Grantee and, upon its acquisition of the Property, be responsible for the Grantee's under the Grant Agreement. Following expiration of the tax credit period and repayment of the short-term loans, WRF wishes to transfer the Property to the Tribe. The proposed WCB Grant Agreement consents to this transfer, subject to conditions in the Grant Agreement. The Grant Agreement also acknowledges that, if the Tribe becomes the owner of the Property, it may later wish to transfer it to the United States in order for the Property to be held in trust for the Tribe. Any transfer to the United States would require approval under the Grant Agreement and applicable law.

FUNDING SOURCE

The purposes of this project are consistent with the authorized uses of the proposed funding sources, the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Fund of 2006 (Proposition 84), Public Resources Code Section 75055(a); and the Habitat Conservation Fund (Proposition 117), Fish and Game Code Section 2786(b/c) which allow for forest conservation and protection projects in order to promote the ecological integrity and economic stability of California's diverse native forests through forest conservation, preservation and restoration of productive managed forest lands, forest reserve areas, redwood forests and other forest types, including the conservation of water resources and natural habitats for native fish, wildlife and

plants found on these lands; and the acquisition of habitat to protect rare, endangered, threatened or fully protected species.

ENVIRONMENTAL COMPLIANCE AND STATE RECOMMENDATION

The project has been reviewed for compliance with the California Environmental Quality Act (CEQA) requirements and is proposed as exempt under CEQA Guidelines Section 15313, Class 13, as an acquisition of land for wildlife conservation purposes, and Section 15325, Class 25, as a transfer of an ownership interest in land to preserve open space and existing natural conditions, including plant or animal habitats. Subject to authorization by the WCB, a Notice of Exemption will be filed with the State Clearinghouse.

STAFF RECOMMENDATION

Staff recommends that the Wildlife Conservation Board approve this project as proposed; allocate \$3,535,000.00 from the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Fund of 2006 (Proposition 84), Public Resources Code section 75055(a) and \$1,500,000.00 from the Habitat Conservation Fund (Proposition 117), Fish and Game Code Section 2786(b/c) for the grant to WRC and to cover project-related expenses; authorize staff to enter into appropriate agreements necessary to accomplish this project; and authorize staff and the California Department of Fish and Wildlife to proceed substantially as planned.