



Consideration of California Environmental Quality Act Lead Agency Exemption Declaration and Award of Nature Based Solutions: Wetland Restoration Grant Funds for the Delta Rice Conversion Program Staff Report

This agenda item presents for Board consideration a recommendation to adopt a Board resolution in accordance with the California Environmental Quality Act (CEQA) finding the project categorically exempt from environmental review and a recommendation to award Nature Based Solutions: Wetland Restoration (NBS: WR) Grant Program funding for the Delta Rice Conversion Program (Project).

PROJECT OVERVIEW

Applicant	The Nature Conservancy
Project Number	NBS02
Project Type	Implementation
Counties	San Joaquin and Contra Costa
Funding Request	\$4,333,124
Total Project Cost	\$4,350,743
Funding Recommendation	\$4,333,124

RECOMMENDATIONS

Staff recommends that the Board adopt Resolution 2023-01 declaring that this project is categorically exempt from environmental review under the California Environmental Quality Act pursuant to California Code of regulations Title 14, Chapter 3, Article 19, Section 15304 for the Delta Rice Conversion Program.

Staff recommends that the Board approve the Applicant’s request to waive the requirement of recording the Landowner Access Agreements (LAA) against the deed of the property, per the Board’s policy for considering such waivers, which was developed and approved in October 2022.

Staff recommends that the Board approve the Applicant’s request to waive the 15-year maintenance standard of implementation projects.

Contingent upon the adoption of Resolution 2023-01, staff recommends that the Board approve and award up to \$4,333,124 in grant funding for the Delta Rice Conversion Program (NBS02) proposed by The Nature Conservancy (TNC).

Staff prepared the text below based on staff’s best understanding of the information provided in the application and meetings with members of TNC. Staff followed the General Grant Guidelines, approved by the Board in November 2022, in working with the Applicant and assessing this proposal.

DESCRIPTION

The Delta Rice Conversion Program will support conversion of at least 3,000 and up to 7,500 acres of current agriculture in the Delta to wildlife-friendly rice for climate and ecosystem benefits. TNC is seeking funds to collaborate with willing landowners to convert their existing agriculture to wildlife-friendly rice. Rice cultivation stops subsidence, reduces greenhouse gas emissions, and provides ecosystem benefits, particularly for migratory birds, compared to non-rice row crops. TNC proposes to contract with Delta landowners in the most heavily subsidized areas of the Delta dominated by peat soils and provide reimbursement for all or some of the conversion costs required to prepare land for rice cultivation. Reimbursement will require either a three- or five-year contract to grow rice. Landowners would be entitled to partial reimbursement for a three-year commitment and full reimbursement for a five-year commitment. There will be additional flooding and fallowing requirements for migratory birds and other ecosystem benefits.

If implemented, the program is expected to increase community awareness about rice cultivation that will encourage other Delta farmers to convert to rice. In addition to climate benefits, rice cultivation has community benefits, including decreased flooding risk and increased economic viability since rice can be a higher priced commodity than other crops. TNC will target the most subsidized lands and the farmers with the most need to support the local Delta economy and provide access to a currently lucrative commodity.

ENVIRONMENTAL COMPLIANCE

This Implementation Project is considered a project under CEQA. CEQA categorically exempts certain projects from environmental review, including minor alterations of land (California Code of Regulations Title 14, Chapter 3, Article 19, Section 15304). The Project qualifies for this exemption because it will only involve minor alterations to land to convert from an existing agricultural use to a different agricultural use (rice cultivation). This change in use will not involve any material changes at the selected properties, as farming activities have been established practices at all the potential project locations. Conversion to rice may involve minor grading, backfilling, and trenching and modification of irrigation and watering systems to allow for the intentional wetting of land. These activities will not cause damage to scenic resources, historic resources or create significant environmental or cumulative impacts, due to being implemented on existing farms. The Delta Conservancy will act as the CEQA lead agency. Staff have reviewed the project and advise the Board to determine the project exempt by adopting Resolution 2023-01, which details lead agency findings, and having the Chair sign the attached Notice of Exemption (see Agenda Item 9.2).

COST SHARE

The Nature Conservancy will contribute \$17,619 in cost share for the Project as in-kind services through indirect costs in excess of 20 percent.

CONSISTENCY WITH STATE AND LOCAL PRIORITIES

The Project is consistent with, and links to, multiple actions and priorities outlined in the Conservancy's governing statute, the Conservancy's Strategic Plan, the Delta Plan, and the Delta Protection Commission's Economic Sustainability Plan. Additionally, the Project furthers the California Natural Resources Agency's initiatives of building climate resilience, protecting biodiversity, and expanding nature-based solutions.

LONG-TERM VIABILITY

The Applicant has expressed concerns regarding the likelihood that Delta farmers will agree to a 15-year commitment to farm rice. To reach desired enrollment acreage, the Applicant has requested to waive the typical 15-year long-term maintenance standard that the Conservancy seeks to achieve with grant-funded projects. Even though not committing to the 15-year standard, the land can stay in rice-ready condition indefinitely. For many farmers, the cost to convert the land for rice farming is prohibitive; this Project will make rice conversion attainable. Farmers can rotate in or out of rice well beyond the contract length when market conditions are viable. Once land is converted, the likelihood that it will remain in a rice-ready state is high. In addition, even if the conversion to rice cultivation is not maintained beyond the three- or five-year contract terms, the benefits of subsidence reduction and carbon emission reductions during the three- or five-year periods will remain as a permanent public benefit to the State. See 'Additional Considerations' below for analysis of waiving the 15-year maintenance standard.

LOCAL AND INSTITUTIONAL SUPPORT

The proposal demonstrates local support and includes a letter of support from the San Joaquin County Board of Supervisors, the California Farm Bureau, and San Joaquin and Solano Counties' Farm Bureaus. The Applicant also acquired letters of support from the Delta Counties Coalition, local landowners, and local non-profit organizations. They are also actively engaging tribal partners and have started outreach to local farmers to gauge interest in enrollment.

SCIENTIFIC MERIT

The proposal describes the scientific basis of the Project and incorporates the best available science that has been developed through 20 years of Delta-specific research on subsidence and emissions. The proposal describes efforts to develop an adaptive management approach consistent with the Delta Plan's adaptive management framework. The proposal describes climate impacts and benefits and includes a mechanism for incorporating climate change considerations into the Project. The Applicant has also converted over 2,000 acres of corn to rice on Staten Island and will use their own knowledge and experience to support landowners in their conversions.

ADDITIONAL CONSIDERATIONS

The Applicant requests the Board consider waiving two typical Conservancy requirements: 1) recording of the LAA against the deed of the property and 2) the 15-year long-term maintenance standard. TNC has expressed concern that recording the LAA against individual property deeds will deter farmers from enrolling in the program, putting enrollment of the targeted acreage at risk. Similarly, TNC expects the 15-year long-term maintenance requirement will limit enrollment to farmers who can take a large financial risk, thus reducing equity in the program and dampening the community economic benefits. Staff have determined that the Project will result in public benefit since the rice conversions will result in at least 3,000 acres of avoided greenhouse gas emissions and subsidence each year that rice cultivation occurs. Rice cultivation will occur for at least three of five years per contract requirements, but potentially longer since the land can remain in rice-ready condition indefinitely and rice can be added to crop rotations (see 'Long-Term Viability' section above). The agricultural community also benefits from the Project since it will provide access to a financially viable commodity for farmers who cannot afford the cost of conversion without the program.

At the October 2022 Board meeting, the Board approved a process and criteria to waive the recording of LAAs. This process involves a staff assessment of the request, and then Board consideration and approval of the request. If approved, landowners are still required to execute an LAA with the Delta Conservancy, and these agreements will be one component of the contracts executed between TNC, the farmers, and the Delta Conservancy. Based on the Board-approved process and evaluation criteria, Staff evaluated and responded to each of the following criteria:

Waiving the Recording of Landowner Access Agreements Analysis

1. Does the landowner have an incentive to retain or remove the project?

The landowners who will participate in the program are currently unknown, so individual landowner incentives to retain the project are unknown. Many landowners throughout the Delta region are interested in rice cultivation due to the current market rates, which are expected to stay high, but the cost of entry, i.e., initial conversion, may be a barrier to entry. Once land has been modified to be able to cultivate rice, farmers can rotate between rice and other row crops as desired. Once land is prepared for rice cultivation, we anticipate landowners will want to retain the option to grow rice at any time, as viable with the fluctuating market value. There may be an incentive to remove the Project for higher-valued permanent crops, like vineyards or orchards, but those are not typically planted on deeply subsided islands due to the high-water table. Therefore, the risk of removal for permanent crops is relatively small since the Project will prioritize deeply subsided islands.

2. What is the land development potential if it is sold?

The land development potential is very low given the program will only enroll deeply subsided islands in the Delta that cannot be developed due to human health and safety reasons. The Project will prioritize lands that are otherwise unsuitable for drained agriculture, such as permanent crops.

3. What is the likelihood that the project would be removed if the property were sold or developed?

The likelihood of the Project being removed is unknown. The current market value of rice is high, which incentivizes farmers to maintain the Project, unless the market value significantly decreases, which is not expected. Also, because farmers generally like to maintain options and the rice conversion is expensive, they are likely to maintain the option to farm rice. Higher priced crops include permanent trees or vineyards, but these crops are not suitable for deeply subsided islands due to high-water tables. Currently, land use in the primary zone of the Delta is limited so development is unlikely.

4. Does the project provide a net benefit to the landowner?

The Project provides a net benefit to the landowner. Rice is currently a higher priced commodity than many other crops grown in the Delta, so landowners will benefit from increased revenue. They will also benefit from having an alternative on land that is otherwise costly to keep drained due to ongoing subsidence. These deeply subsided islands continue to subside when farmed with row crops, which poses a risk to farmers. Halting subsidence by cultivating rice will maintain agricultural viability of the land, providing another benefit to the farmer. Also, because farmers generally like to maintain options and the rice conversion is expensive, maintaining the fields in rice-ready condition is a benefit to the farmer.

5. For how long has the land been under the same ownership?

No farmers are currently enrolled in the program, so this is unknown.

6. If the project is not approved for funding, what is lost?

Rice cultivation halts subsidence and reduces greenhouse gas emissions compared to other agriculture in the Delta. Not approving this program means many acres of land would continue to subside, emit greenhouse gases, and continue increasing the risk of flooding throughout the Delta. The Delta community would also have limited access to rice cultivation given the high cost of conversion.

The Project also serves as a pilot project to determine whether rice and rewetting is economically viable and how it works in practice on farm fields. Not funding would mean a loss of data that would provide guidance to other farmers wanting to adopt practices.

7. Is the landowner a public entity or is the project in collaboration with a public entity?

The Applicant anticipates that none of the landowners will be public entities. It is unknown if they are in collaboration with public entities, but that information can be collected upon enrollment.

8. Does the landowner have other government contracts that the project relates to?

It is unknown if they have other government contracts, but the Applicant can collect that information upon enrollment.

TNC and the Conservancy will be in contract with the farmers for three or five years as part of this program. As a requirement of these contracts, farmers will be asked to submit crop maps to the United States Department of Agriculture Farm Service Agency for at least 15 years beyond their contract terms. These data can be used to track crops on lands enrolled in this program to verify the public benefit of the Project long-term.

9. Has California Environmental Quality Act (CEQA) requirements/public comment occurred? What are the results?

No. Notice of Exemption will be filed if the Board adopts Resolution 2023-01.

Waiving the 15-Year Maintenance Standard Analysis

The Conservancy's General Grant Guidelines state that the Conservancy may require that the outputs of implementation projects be maintained for a minimum number of years beyond the grant term. In accordance with bond funding requirements, the threshold has been a minimum of 15 years. However, general fund appropriations do not have the same 15-year maintenance requirement.

The Rice Conversion Program results in multiple public benefits, many of which can be directly quantified such as tons of carbon that will be avoided being emitted from the soil and inches of subsidence that will not occur. Staff can quantify the number of acres of migratory bird habitat created and the number of acres of farmland protected from being lost to subsidence. These benefits will occur for at least for three or five years, during the time of the active contracts, but as described above, the benefits also will occur in the years that farmers voluntarily choose to cultivate rice, which we expect to be often and indefinite as part of crop rotations. This means that public benefits will occur beyond the length of the contracts. There are also additional community public benefits due to protection of

the region's resources. Economic vitality is supported by providing farmers access to higher valued commodities and environmental education is supported through outreach opportunities about wildlife-friendly rice cultivation and increased awareness within the community. The Rice Conversion Program is a multi-benefit project, with sustained benefits of at least 5 years, but potentially 15 years and beyond.

BACKGROUND

Chapters on September 5, 2022, the Amended Budget Act of 2022 (Assembly Bill 179, Item 3875-101-0001 of Section 111) provided the Conservancy with \$36,000,000 for projects that support NBS: WR. Of the total up to \$34,200,00 is available for projects. The goals of the NBS: WR funding are to support restoration, conservation, and climate resilience for wetlands in the Sacramento-San Joaquin Delta. The Delta region includes over 150,000 acres of highly organic peat soils that are significantly subsided to depths of 20 to 30 feet below sea level. This subsidence threatens the State and Federal water projects, Delta communities, and the region's rich agricultural production. Subsidence is the result of oxidation of the peat soils and results in over 1.5 million tons of CO₂ emissions annually. Decades of data suggest that re-wetting the peat soils by restoring wetlands or implementing wet agriculture (paludiculture) stops subsidence and the resulting carbon emissions.

SUGGESTED MOTION LANGUAGE:

Four separate motions are required.

Motion 1: Move that the Board adopt the Resolution 2023-01, which finds that the Delta Rice Conversion Program is categorically exempt from environmental review under the California Environmental Quality Act pursuant to California Code of Regulations Title 14, Chapter 3, Article 19, Section 15313, subsections (a) and (c).

Motion 2: Move that the Board approve the Applicant's request to waive the requirement for recording a Landowner Access Agreement against the deed of the property, conditional upon the Conservancy receiving and approving a landowner access agreement for the length of the contract between the Applicant and the landowner of the properties (three to five years).

Motion 3: Move to approve the Applicant's request to waive the 15-year maintenance standard of a project.

Motion 4: Move that the Board approve and award funding up to \$4,333,124 to The Nature Conservancy from the Nature Based Solutions: Wetland Restoration Grant Program for the Delta Rice Conversion Program.

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FIGURE 1. MAP OF ELIGIBLE ISLANDS FOR THE DELTA RICE CONVERSION PROGRAM

