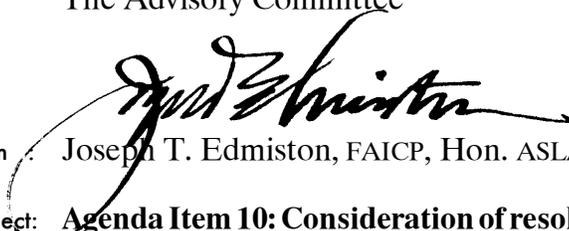


Item 14(c)  
SMMC  
6-1-2009

## Memorandum

To : The Conservancy  
The Advisory Committee

Date: March 23, 2009

From :   
Joseph T. Edmiston, FAICP, Hon. ASLA, Executive Director

Subject: **Agenda Item 10: Consideration of resolution authorizing a grant of deposited mitigation funds (Alamos Canyon ILF-Corps No. 200400766-MDC) from the Santa Monica Mountains Conservancy Fund to the Mountains Recreation and Conservation Authority for implementation of the Gopher Canyon riparian habitat restoration and creation project in the Brown's Canyon watershed, unincorporated Los Angeles County, Chatsworth area.**

Staff Recommendation: That the Conservancy adopt the attached resolution authorizing a grant of \$915,980 of deposited mitigation funds (Alamos Canyon ILF-Corps No. 200400766-MDC) from the Santa Monica Mountains Conservancy Fund to the Mountains Recreation and Conservation Authority for implementation of the Gopher Canyon riparian habitat restoration and creation project in the Brown's Canyon watershed.

Legislative Authority: Sections 33215, 33204.2(a) and 33204.27(a) of the Public Resources Code

Background: In early December 2009 the Conservancy received a \$915,980 check from the California Department of Transportation (Caltrans) to fund 7.046 acres of riparian habitat restoration and creation in the Gopher Canyon tributary of Browns Canyon. Three years of staff bird dogging finally led to the resolution of the issue. The money was deposited into the Santa Monica Mountains Conservancy Fund (Conservancy Fund) in December 2008. The funding is an approved appropriation in the State budget.

The payment arose from un-permitted emergency work that Caltrans did in Alamos Creek riparian habitat along the 118 Freeway in 2004. The Army Corps of Engineers (ACOE) required the mitigation. The ACOE turned to the Conservancy because it is the main entity in the "Agreement for Establishment and Administration of The Los Angeles County Aquatic Resource In-Lieu Fee Mitigation Program" with the ACOE.

Although the Mountains Recreation and Conservation Authority (MRCA) is also a signatory to this agreement, Caltrans legal counsel would not provide the money directly to the MRCA because the MRCA is not included in the actual subtitle of agreement. The final agreement was a four-way agreement between Caltrans, the Conservancy, ACOE and the FHWA. The Conservancy staff has always made it clear that the MRCA should conduct the work both

because of the MRCA's restoration crew capacity and the fact that the agreement explicitly calls for the work to be conducted on entirely fee simple ownership of the MRCA.

On January 7, 2009 the MRCA Governing Board adopted the attached resolution authorizing application to the Conservancy for a grant of the full \$915,980 to conduct the mitigation per the scope of the four-way agreement. A map of the designated mitigation area is attached. The MRCA intends to begin work immediately. It is a large and complex mitigation project that must integrate the need for public access and recreation components. It will require a circulated CEQA document and extensive engineering and hydrology work. The MRCA would like to have the entire site prepped for planting in the fall of 2009.

At the Conservancy's February meeting this item was continued to allow staff to investigate if the money and mitigation could be performed in Ventura County rather than in Los Angeles County because the initial impacts occurred in Ventura County. Staff consulted both with Caltrans and the Army Corps of Engineers (ACOE). Staff is expecting an e-mail response from the ACOE before the Conservancy meeting. The ACOE staff is swamped. In phone conversations, the representative said that they will consider any request but that generally jurisdictional boundaries carry much less weight in determining optimal mitigation sites than the actual proximity of a mitigation site to the impact area. The ACOE staff said the distance between Alamos Canyon and Browns Canyon both on the south-slope of the Santa Susana Mountains provided good proximity. In addition, the ACOE representative said that timing was an issue because there was no other identified site and that multiple years had passed with the out the mitigation being implemented.

The Caltrans staff also stressed the issue of an existing multi-year delay, and no future certainty of timing, if there was a change of jurisdiction. They also expressed that the reason that four agencies were able to enter the four-way mitigation agreement was because the MRCA could offer an absolute certain answer to the where and how questions. Furthermore they stressed that any changes would have to be reviewed by the FHWA and subsequently by the California Transportation Commission (CTC). That would guarantee at least a years delay in the project because any necessary CEQA review and regulatory permitting could not be accomplished in time for the 2009-10 wet season.

Staff knows of no location where an equivalent amount of habitat can be created and restored on public land in reasonable proximity in either Ventura or Los Angeles counties.