

DESERT AND MOUNTAIN CONSERVATION AUTHORITY

MEMORANDUM

TO: The Governing Board

FROM:  Joseph T. Edmiston, FAICP, Hon. ASLA, Executive Officer

DATE: July 7, 2010

SUBJECT: **Agenda Item VII: Consideration of resolution authorizing entering into an agreement, and to implement said agreement, with AV Solar Ranch 1, LLC to: 1) accept mitigation lands required by Los Angeles County approvals of the AV Solar Ranch 1 Projects; and 2) accept funds for project administration, property maintenance, and restoration, incorporated and unincorporated Antelope Valley.**

Staff Recommendation: That the Governing Board adopt the attached resolution authorizing entering into an agreement, and to implement said agreement, with AV Solar Ranch 1, LLC to: 1) accept mitigation lands required by Los Angeles County approvals of the AV Solar Ranch 1 Projects; and 2) accept funds for project administration, property maintenance, and restoration in both the incorporated and unincorporated areas of the Antelope Valley watershed.

Background: In early 2009, the Governing Board adopted a comment letter on the subject 2,000-acre proposal for a solar electricity generation facility straddling Highway 138 northwest of State Parks' Antelope Valley Poppy Preserve. The DMCA letter on the EIR Notice of Preparation emphasized that a fully fenced project of this size must protect a substantial amount of land to adequately mitigate its direct and indirect ecological impacts. The letter recommended approximately 650 acres of permanent protection. The proposed project only protected 95 acres and there would be no conservation easement on those acres. Soon thereafter representatives from NextLight, the company pushing the project, contacted staff for a meeting in which the same concerns were reiterated. Subsequently, NextLight representatives approached staff about entering into an agreement in which the Desert and Mountain Conservation Authority (DMCA) would be the recipient agency for approximately 450 acres of additional open space to be acquired by NextLight. Negotiations regarding this agreement have gone on since late 2009.

In June the Draft EIR for the project was released. The key pages from the DEIR that address offsite land acquisition mitigation measures are attached. In a nutshell, the DEIR conditions require the applicant to acquire a minimum of 450 acres of off-

site mitigation lands to be restored, enhanced, and maintained according to specific requirements. The land shall not exceed 10 separate fragments and at least 225 acres shall be acquired in the Vicinity of the Antelope Valley Poppy Preserve, including lands in or adjacent to SEA 57, or lands connecting the Poppy Preserve to the Angeles National Forest. An additional 75 acres shall be acquired within the same area, or in or adjacent to SEA 60, or adjacent to the Arthur B. Ripley Woodland State Park. There are many other listed requirements for the attributes of the land and how it must be restored and maintained at specific levels. The DEIR mitigation conditions call for this restoration and maintenance to be funded up front by the applicant.

Staff has been working with the applicant to craft an agreement that mirrors the DEIR conditions and would allow the agreement to be the mitigation measure implementation mechanism. The draft agreement to date includes an annual maintenance payment for basic open space management including signage, trash pick up, and ranger patrol by the Mountains Recreation and Conservation Authority (MRCA) and a small initial restoration payment to address the most egregious disturbance areas on the future 450 acres. However, wholesale restoration was never contemplated until the release of the DEIR.

The part of the agreement that needs further work and clarification addresses the cost and standards of the conditioned restoration work. As conditioned, in many cases the restoration work could cost more than the land. Staff is going to meet with Los Angeles County Regional Planning staff and the applicant the day after the Governing Board meeting to address these outstanding issues. Most likely they can be worked out. Because of the fast pace of the project, the infrequency of DMCA meetings, and the climate within the County approval process, the staff recommendation is to authorize entering into a binding agreement with some direction and to let staff complete the negotiation.

Maps of project and the potential mitigation land areas are attached. The price and terms of the draft agreement can be discussed in closed session.