

SANTA MONICA MOUNTAINS CONSERVANCY

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Agenda Item 9(b)
SMMC
4/25/11



March 15, 2011

The Honorable Bob Huber and City Council Members
City of Simi Valley
2929 Tapo Canyon Road
Simi Valley, California 93063

Ready Project Biological Mitigation Measures
890 and 900 West Los Angeles Avenue
CUP-S-195 MOD-3/CUP-S-289 MOD 1/CUP-S-615/TP-S-653

Dear Mayor Huber and Council Members:

The Santa Monica Mountains Conservancy (Conservancy) and Mountains Recreation and Conservation Authority (MRCA) have each commented previously on the subject project. These previous letters (dated July 12, 2010 and October 25, 2010, respectively) are incorporated by reference and attached for your convenience. Our concerns about the proposed addition of RV and contractor storage facilities and expansion of existing uses have not been adequately addressed by the proposed mitigation measures. We concur with City staff's identification of potential impacts, the most significant of which is the potential impact to wildlife movement. However, it is our professional opinion as conservation biologists that the proposed 20-foot buffer would not mitigate the potential biological impacts to below the level of significance. Mitigation measures that increase the Arroyo Simi buffer, establish a buffer along the All Valleys wildlife corridor, and restrict the use of invasive species are necessary to keep potential project impacts below significance thresholds for biological resources. Unless properly mitigated, all potential impacts must be fully studied and disclosed in an Environmental Impact Report. As described in detail below, without these additional measures, a Mitigated Negative Declaration (MND) is not a sufficient level of environmental review.

Recommended Mitigation Measures

The following additional measures are required to reduce impacts to biological resources to less than significant:

1. The applicant must be restricted from planting any invasive species anywhere on the subject property. To ensure compliance with this measure, landscaping plans must be approved by the Department of Fish and Game (DFG), MRCA, or a qualified biologist with expertise in local native vegetation. Additionally, compliance with this measure must be a condition of the Conditional Use Permits (CUP) requested by the applicant. A list of plants to avoid is available at the California Invasive Plant Council's website (www.cal-ipc.org).
2. The applicant must establish a minimum 10-foot vegetated buffer on the east side of the property adjacent to the All Valleys wildlife corridor. A masonry wall at least six feet tall shall be constructed at the edge of this buffer area to shield the corridor from light and noise. Given the sensitivity and regional significance of the corridor, this measure is necessary in addition to the currently proposed lighting and noise measures in order to effectively reduce ambient light and noise emanating from the property. The buffer shall be planted with native vegetation subject to approval by DFG, MRCA, or a qualified biologist with expertise in local native vegetation.
3. The applicant must establish a vegetated setback from the Arroyo Simi consistent with the adjacent All Valleys RV project, including a flare in the southeast corner to create a funnel toward the wildlife corridor. A scientifically justified buffer would be 150 feet to mitigate impacts on the stream and riparian habitat by providing water quality benefits, infiltration benefits, habitat benefits, and wildlife movement benefits. Perhaps most importantly, the setback's purpose is to protect the proposed development from hydrological changes in the Arroyo Simi without resorting to bank armoring. In no event should this buffer be less than twice the width of the Rancho Simi Recreation and Parks District trail easement. The buffer shall be planted with native vegetation subject to approval by DFG, MRCA, or a qualified biologist with expertise in local native vegetation.
4. The applicant must record a conservation easement over all buffer areas in favor of the MRCA. Given the applicant's code compliance history, only a recorded third-party enforcement mechanism would adequately protect biological resources against potential impacts. The conservation easement shall include provisions that allow the MRCA to recoup all expenses related to enforcement actions from the applicant and his successors.

Current Buffer Inadequate Based on Scientific Review

City staff prepared a comprehensive analysis of habitat buffer area widths to assess best practices and apply them to the proposed project. Resources identified in the study include the City-owned open space to the west, the Arroyo Simi to the south, and the All Valleys wildlife corridor to the east of the subject property. All of these resources are part of the Alamos Canyon/Tierra Rejada Valley link identified in the 2006 *South Coast Missing Linkages Project*. The All Valleys corridor was specifically created to maximize the utility of a 6-foot box culvert under West Los Angeles Avenue and the parallel railroad tracks as part of this broader landscape linkage.

After identifying these regionally significant biological resources, City staff then listed potential direct and indirect impacts to habitat and movement corridors. From the staff report:

Development projects have the potential to result in significant direct and indirect impacts to wildlife habitat and wildlife corridors. The operation of this project could result in significant long-term impacts to the habitats and wildlife movement. Excessive operational noise could disrupt vital activities (e.g., breeding, foraging, and migration) for some wildlife species and potentially displace them from the adjacent habitats. Outdoor lighting could also have the potential to result in a change in ambient conditions and new source of glare and/or lighting onto adjacent corridors. Stormwater and irrigation runoff could degrade habitat and change natural flow regimes, cause erosion, and introduce nonnative species to the habitats. Some nonnative plants are highly invasive and can out-compete and displace native plant species that are endemic to the area, including sensitive plant species. Invasive nonnative plant species have the ability to degrade and transform habitats, making them unsuitable for sensitive wildlife species. An overall increase in human activities could also deter wildlife from using the area. The Initial Study prepared for the project contains the conclusion that potentially significant impacts on sensitive biological resources and wildlife corridors could result from the operation of the project.

A buffer area landscaped with native vegetation is designed to address all of the aforementioned impacts in the most cost-effective manner feasible. City staff conducted a literature review that justified various buffer widths based on the purpose of the buffer. None of widths recommended in the scientific articles for wildlife or habitat protection is

even close to the current buffer width of 20 feet. Taking into account the concurrent 16-foot trail easement, the result is only a 4-foot vegetated buffer. This width is one-tenth of the *minimum* scientifically justified buffer for wildlife movement, based solely on the City's literature review. The Conservancy's proposed 150-foot buffer is biologically superior and would actually reduce potential impacts to below a level of significance. The currently proposed buffer would not.

Proposed Mitigation is Inconsistent with Adjacent Project

Per the California Environmental Quality Act (CEQA), each listed impact must be mitigated below a threshold of significance or be studied and disclosed through a full Environmental Impact Report. The adjacent All Valleys RV project successfully mitigated all potential impacts to biological resources through extensive mitigation measures designed to restore habitat on-site and facilitate regional wildlife movement. The subject Ready project not only fails to achieve this basic standard of mitigation, but actually would undermine the required mitigation of the All Valleys RV project. The outcome of the Ready project is so critical to the success of the All Valleys mitigation that the responsible agencies have temporarily stayed planned restoration activities until after this case is decided. As proposed, the subject project would impose additional mitigation costs on the adjacent project and thereby burden the owners of All Valleys RV with avoidable expenses. Furthermore, the proposed project may have direct impacts on the adjacent wildlife corridor that would make it cost-prohibitive for All Valleys to comply with their required mitigations. These are unacceptable burdens on a property owner who, by all accounts, has done everything by-the-book at considerable expense.

In sharp contrast, the applicant has a documented history of code violations and enforcement actions by the City and others. This very project arose from the need to legalize unpermitted activities that are ongoing on the applicant's property. Past activities, including the illegal fill of jurisdictional waters, illustrate a disregard for biological resources. These illegal activities have two practical effects on the current permitting process and cannot be considered wholly separate from the proposed project. First, they reduce the apparent project cost because many activities that should be included in this cost have already taken place without permits. Second, they increase the apparent level of disturbance on-site in an attempt to subvert environmental law. While the baseline for CEQA analysis may be present conditions, even if these conditions are a result of illegal activities, the City is still obligated to ensure that no further resource impacts will occur without appropriate environmental review. Only the mitigation measures outlined above would protect biological resources such that the project's impacts are less than significant.

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Proposed Project Violates CEQA Without Additional Mitigation

The environmental review process is designed to disclose and/or mitigate all potentially significant impacts. The MND for the project includes an extensive list of potential impacts, but then does not proceed to mitigate them as required. Without further mitigation, the project does not meet the standard for study and disclosure of potential impacts required by CEQA. The Conservancy urges the Council to adopt the above four mitigation measures or deny the project. As currently proposed the project would have known, mitigable impacts on biological resources, impair regional wildlife movement, and degrade habitat quality in the Arroyo Simi.

Please send all documents relating to this project to me at the letterhead address. If you have any questions, I can be reached at (310) 589-3200, ext. 128.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Paul Edelman', with a horizontal line extending to the right.

PAUL EDELMAN
Deputy Director
Natural Resources and Planning

cc: Lauren Funairole, Senior Planner

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**Supplemental Information**

April 4, 2011

The Honorable Bob Huber and City Council Members
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CUP-S-195 MOD-3/CUP-S-289 MOD 1/CUP-S-615/TP-S-653

Dear Mayor Huber and Council Members:

This letter supplements our previous March 15, 2011 comment letter on the subject project. All our recommendations contained within that letter remain unchanged.

Before the upcoming April 11th City Council hearing, we wish to bring to your attention the attached aerial photography of the subject project. Historical aerials from the years 1969, 1978, 1980, and 2005 show with stunning clarity the cumulative impact from incremental encroachments by the applicant into the Arroyo Simi. Over time, the applicant has progressively expanded development on his property into the historical floodplain, and indeed into the historical channel, of the Arroyo Simi. The past unpermitted fill and levee has unmistakably shifted the course of the Arroyo and affected the hydrology of the City-owned parcel to the west of the subject property. The result has been a decrease in riparian vegetative cover and habitat value on a public open space parcel, demonstrating one example of how the proposed project could impact biological resources off-site.

The proposed riparian buffer is designed to specifically address the potential for the subject project to worsen these historical impacts to the Arroyo Simi. As shown in the attached aerials, the historical course of the Arroyo passes directly through the proposed project. It is entirely plausible for the river to retake its historical route in a high-flow year. If that were to occur, only bank armoring would protect the applicant's developed property at great expense to biological resources. The Conservancy buffer would mitigate this risk by setting back development from the bank of the Arroyo.

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Thank you for your consideration of these documents. If you have any questions, I can be reached at (310) 589-3200, ext. 128.

Sincerely,

A handwritten signature in black ink, appearing to read 'Paul Edelman', with a stylized flourish extending to the right.

PAUL EDELMAN
Deputy Director
Natural Resources and Planning

Attachment

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