

SANTA MONICA MOUNTAINS CONSERVANCY

RAMIREZ CANYON PARK
5750 RAMIREZ CANYON ROAD
MALIBU, CALIFORNIA 90265
PHONE (310) 589-3200
FAX (310) 589-3207



August 26, 2013

Vern Umetsu
Department of Environmental Services
City of Simi Valley
2929 Tapo Canyon Road
Simi Valley, California 93063

**Conditional Use Permit CUP-S-591 MOD#1
All Valleys RV Storage Expansion - 850 Los Angeles Avenue**

Dear Mr. Umetsu:

The RV storage project that was approved, and fully constructed, on the subject property provided a precarious balance between development and the protection of Arroyo Simi habitat and an inter-mountain range habitat linkage from the south side of the 118 Freeway. The Conservancy put considerable energy into achieving the approved project configuration and accompanying mitigation measures.

The set aside 60-foot by 1000-foot wildlife corridor was planted and provides vital wildlife movement mitigation. However, no permanent conservation easement was recorded over the corridor as required. Unfortunately too, the project is fully operational and the required riparian mitigation has not occurred and no location is secured. Lastly the required riparian buffer habitat protection between the project and the Arroyo Simi has not occurred. Instead this habitat is slated for project expansion that will further eliminate jurisdictional riparian habitat. The CEQA mitigation process has broken down on this project. The additive mitigation for a project must be commensurate with the new impacts and unfulfilled mitigation must be completed prior to additional project expansion approval.

The project applicant must not be rewarded with additional development in sensitive habitat when a litany of glaring mitigation holes remain from the last approval. All of the above mitigation deficiencies must be fully cured and fully funded prior to consideration of project expansion based on the same six-year-old Mitigated Negative Declaration.

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In addition any expanded project must expand the proposed width of all affected portions of adjacent, onsite wildlife corridor. The length-to-width ratio of the existing corridor already pushes the ecologically functional envelope, and the future impacts of another large RV storage facility that was approved on the opposite side of the wildlife corridor are not yet fully understandable because no construction has occurred. The attached figure shows the minimum necessary expansion of the proposed corridor width between the constructed limit of asphalt and the Arroyo Simi. Lack of this expanded corridor width could have an unavoidable significant adverse impact on wildlife movement.

Consultation with the Mountains Recreation and Conservation Authority (MRCA) staff confirmed that the MRCA did not accept the 60 by 1000-foot wildlife corridor conservation easement because it required considerable maintenance and no funding was provided for said work. Recent discussions with City staff and the applicant's environmental consultant revealed that the applicant intends to grant a conservation easement to the Army Corps of Engineers (ACOE). Scores of hours of discussion and multiple drafts between the ACOE and MRCA did not produce a mutually satisfactory grant of easement document principally because there was no funding to accompany the easement both because of the applicant's financial status and projected insufficient profit from the project.

The subject project has been operating at full capacity since it opened. The applicant has the funding to permit and construct a substantial project expansion that would degrade the existing wildlife corridor that was required as a mitigation measure. It is imperative that any new project approval include adequate funding for maintenance and permanent legal protection of the wildlife corridor conservation easement.

The bare minimum funding necessary to send a staff person to and from the wildlife corridor twice a year and provide an hour of onsite inspection is \$600. Twenty years of coverage at that rate would be \$12,000. If any work is necessary to move sediment that is not under the jurisdiction of the Ventura County Watershed Protection Division, while not damaging planted habitat, at least \$5,000 would be needed to cover labor and expenses. Such events and fixes most probably would occur at least twice a decade. Twenty years of coverage would be \$20,000.

For an easement holder to enforce legal protections, said entity must be able to hire attorneys for such work. A minimum \$10,000 legal defense fund is necessary to provide adequate resources. The ongoing, non-permitted work of the adjacent landowner within the subject property in the wildlife corridor is clear evidence of this need. Lastly, for a

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public entity to prepare, review, and accept a conservation easement, a typical staff time fee is approximately \$2,500.

In summary, the Conservancy urges that the City require a one time, minimum payment of \$50,000 to the future easement holder prior to the issuance of any additional permits or entitlements. We urge that that condition not be released until the City receives written confirmation from easement holder that said funds are secure in the holders account. To the extent the applicant be required to continue with some maintenance duties in the easement such as trash pick up that would be all the better for the public and would be a reasonable burden.

The Conservancy urges that the City require a condition that the applicant complete transfer of a conservation easement on the 60 by 1000-foot wildlife corridor from the past project approval to a qualified public entity prior to any new permit issuance on this pending application. To provide adequate mitigation, that easement transference must occur with the above described minimum \$50,000 payment to the easement holder.

The proposed project must also require a subsequent conservation easement to a public entity over all the remaining natural portions of the property to ensure no project expansion in the future. The applicant must voluntarily go on the record agreeing to this condition of approval to be completed prior to the issuance of any new permits. Said condition should require a \$2,500 payment to the conservation easement accepting entity for staff time.

The MRCA would be willing to accept both the overdue easement and the future easement under these funded conditions and would be willing to allow the ACOE to move ahead of its position on the property title if the ACOE were to also desire said conservation easements at any future date.

To our knowledge the ACOE has agreed to reduce the existing riparian habitat restoration acreage requirements from the already constructed project to 2.4 acres. With the applicant's current plan to further grade and fill into the Arroyo Simi that acreage amount will increase. The applicant has minimal land to do onsite riparian habitat mitigation. The market rate for full up in lieu fee mitigation costs under the ACOE's new Rule is approximately \$250,000 per acre including stewardship and legal defense fund contributions and will only increase over time. This prior-required mitigation has already been deferred several years, and no funding has been transferred to mitigation entities. The Conservancy urges the City to require a condition that the applicant have fully satisfied all riparian in lieu

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mitigation fee requirements from the past project approval and riparian habitat loss prior to any permit issuance on this new pending application. That ACOE approved in lieu fee agreement with a public entity and proof of fund transfer must be provided to and verified by City staff to ensure its efficacy.

Please address any questions and future correspondence to Paul Edelman on our staff at 310-589-3200 ext. 128, edelman@smmc.ca.gov, and at the above letterhead address.

Sincerely,

IRMA MUÑOZ
Chairperson