



MOUNTAINS RECREATION & CONSERVATION AUTHORITY

Los Angeles River Center & Gardens
570 West Avenue Twenty-six, Suite 100
Los Angeles, California 90065
Phone (323) 221-8900

MEMORANDUM

TO: The Governing Board

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

DATE: April 6, 2011

SUBJECT: **Agenda Item V(k): Consideration of resolution authorizing entering into a management agreement and contract with Desert and Mountain Conservation Authority for administration, acquisition expenses, initial site preparation, and property management services for a 480-acre property, from the AV Solar Ranch One project, located between Highway 138 and California State Parks Antelope Valley Poppy Preserve, unincorporated Antelope Valley.**

Staff Recommendation: That the Governing Board adopt the attached resolution authorizing entering into a management agreement and contract with Desert and Mountain Conservation Authority for administration, acquisition expenses, initial site preparation, and property management services for a 480-acre property, from the AV Solar Ranch One project, located between Highway 138 and California State Parks Antelope Valley Poppy Preserve, unincorporated Antelope Valley.

Background: At its September 8, 2010 meeting, the Desert and Mountain Conservation Authority (DMCA) authorized 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. The proposed action would authorize the Mountains Recreation and Conservation Authority (MRCA) to enter into a management agreement and contract with DMCA to manage the subject property and conduct other related tasks.

The DMCA is an authority created by the Joint Powers Authority (JPA) Agreement signed on August 9, 2006 between the Antelope Valley Resource Conservation District (RCD) and the Santa Monica Mountains Conservancy (Conservancy). That agreement can be found online at <http://www.dmca.ca.gov>. The DMCA was established to help acquire, identify, and manage areas that will preserve open space habitat located in the more northern portion of Los Angeles County. The RCD is the fiscal agent of the DMCA. The protection of habitat linkages between the Sierra Pelona and San Gabriel mountains ranges and the Upper Santa Clara

River watershed is critical to maintain large scale regional ecological connectivity. There are numerous Los Angeles County-designated Significant Ecological Areas (SEAs) in this transition area between the Santa Clara River watershed and Antelope Valley.

The DMCA adopted a comment letter in early 2009 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 Environmental Impact Report (EIR) Notice of Preparation for the AV Solar Ranch One (AVSR1) Project emphasized that a fully fenced project of this size must protect substantial amount of land to adequately mitigate its direct and indirect ecological impacts.

The DMCA letter recommended approximately 650 acres of permanent protection for the AVSR1 Project. The proposed project would only protect 95 acres and there would be no conservation easement on those acres. Soon thereafter, representatives from NextLight, the company pushing the project (now AV Solar Ranch 1, LLC or First Solar), contacted DMCA staff for a meeting in which DMCA staff reiterated the same concerns. Subsequently, NextLight representatives approached DMCA staff about entering into an agreement in which the DMCA would be the recipient agency for approximately 450 acres of additional open space to be acquired by NextLight.

In June 2009 the Draft EIR was released. In a nutshell, the Draft EIR conditions require, among other things, the applicant to acquire a minimum of 450 acres of offsite mitigation lands to be restored, enhanced, and maintained according to specific requirements (Mitigation Measure [MM] 5.7-2: Off-site Mitigation for Loss of Habitat). The land shall not exceed 10 separate fragments and at least 225 acres shall be acquired in the vicinity of Antelope Valley Poppy Preserve, including lands 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 and recommendations for the attributes of the land and how it must be restored and maintained at specific levels. The Draft EIR mitigation conditions call for this restoration and maintenance to be funded up front by the applicant.

The County certified the AVSR1 Project. The County's EIR for the AVSR1 Project identified several potentially significant impacts to biological resources, and found that the mitigation measures incorporated into the project would reduce those impacts to less than significant levels (URS 2011)¹.

¹URS Corporation. 2011. Biological Evaluation of AVSR1 Fairmont Butte Mitigation Property URS Project No. 28907000.00057. To Mr. Roy Skinner, AV Solar Ranch 1, LLC, from Christopher Julian, URS Corporation. February 15.

The project applicant proposed the 480-acre "Fairmont Butte Mitigation Property" to partially mitigate the AVSR1 Project. According to the Biological Evaluation (URS 2011), the Mitigation Property is located approximately one-half mile east of the AVSR1 site, and abuts the south side of State Route (SR) 138 between 150th Street West and 155th Street West (see attached). The property encompasses a total of 480 acres in and adjacent to the Fairmont-Antelope Buttes SEA #57 delineated in the County's General Plan, and the entire 480 acres is located within proposed SEA #21 as identified in the draft Los Angeles County General Plan. The northernmost 320 acres of the site were previously proposed for development of the Fairmont Butte Motorsports Park, a private racetrack, and the County circulated a Draft EIR for the proposal in 2009. That development proposal has been abandoned.

The Mitigation Property spans the top of Fairmont Butte, a regional topographic feature, and thus contains both north-facing and south-facing slopes (URS 2011). The portion of the site nearest SR-138 is topographically flat, and is part of the floor of the Antelope Valley.

The Biological Evaluation (URS 2011) concluded that the Fairmont Butte Mitigation Property meets the criteria set forth in the AVSR1 Project MM 5.7-2 in its present state. Sensitive habitats and plant communities onsite include: rubber rabbitbrush scrub, buckwheat scrub, wildflower fields, patches of valley needlegrass grassland, a stand of Joshua tree woodland, herbaceous wetlands, and a seasonal pond. The Mitigation Property supports raptor and other bird habitat, and a burrowing owl was observed. The Mitigation Property contains suitable habitat for the Blainville's horned lizard. The Mitigation Property is located immediately adjacent to a parcel owned by the Conservancy. Per URS (2011), disturbance by off-highway vehicle or 4-wheel drive vehicle traffic was observed.

Minor improvements were recommended in the Biological Evaluation (URS 2011) to further improve the property's biological value and to ensure that the habitat values would be greater than those lost as a result of implementing the AVSR1 Project. These include:

- The illegal dump site in the patch of Joshua tree woodland to the north of Fairmont Butte should be removed, so that this area can recover and regain natural biological values.
- The site should be signed and/or fenced to preclude unauthorized access.
- After fencing the site, any unofficial dirt roads within the property that will not be used by the conservation authority for monitoring and/or patrolling should be abandoned and allowed to revegetate. It is anticipated that discontinuing vehicle traffic would allow these areas to revegetate naturally, as some of the site's roads are currently exhibiting this process.

The management plan is to be determined. However, AV Solar would be responsible for cleaning up trash prior to transfer to DMCA. Fencing would be limited. It is anticipated the land would be transferred to DMCA within approximately one month.

That Mitigation Agreement between AV Solar and DMCA was executed on September 14, 2010. That agreement simplifies timing for land transfer and restoration obligations. It also maximizes consistency with the County conditions and the Final EIR mitigation measures. However, the agreement calls for fee simple land protection via ownership by DMCA, not just conservation easements.

Per the Mitigation Agreement between AV Solar and DMCA, AV Solar would fund certain management activities. These include \$5,000 for administrative costs, \$30,000 for initial fencing, and \$30,000 to cover first and last years' management/conservation activities. The proposed action would authorize MRCA to enter into a contract with DMCA to conduct those activities. The AV Solar-DMCA Mitigation Agreement includes an annual maintenance payment for basic open space management.

If the proposed action is approved, the contract between DMCA and MRCA would be on a time and materials basis. The cost of MRCA hourly staff labor includes cost allocation and vehicle allocation amounts rolled into one number.