



BOARD OF SUPERVISORS AGENDA ITEM REPORT

Requested Board Meeting Date: 9/3/2024

*= Mandatory, information must be provided

Click or tap the boxes to enter text. If not applicable, indicate "N/A".

***Title:**

Resolution to Approve an Exception to the Multi-Species Conservation Plan Restricted Covenant to Improve Wildlife Habitat and Movement

***Introduction/Background:**

Pima County and the Regional Flood Control District own certain properties within the Avra Valley/I-10 Critical Landscape Connection (CLC) that require restoration before they can contribute to the functionality of the CLC. They are intended as mitigation for the County's Multi-species Conservation Plan (MSCP) and are restricted with the MSCP Master Restrictive Covenant (MRC) which prohibits most/all of the planned activities. The MRC anticipates the need for restoration and provides an exception allowing for uses that the Board "in its reasonable discretion determines is necessary" to restore or enhance MSCP mitigation lands.

***Discussion:**

The District and County-owned properties at issue are adjacent to an unused railroad spur that provides one of the last remaining opportunities in this region to facilitate wildlife movement under I-10. A number of restoration efforts are planned for these properties, the first of which is a wildlife ramp to allow wildlife to exit the Santa Cruz River and access the underpass. The District plans to begin construction on the ramp in October 2024. Because these properties are restricted, it is necessary to utilize MRC exception 5.1 to allow for this and other restoration activities on these restricted properties. To invoke this exception the Board must officially find that the planned activities are necessary to retain, restore or enhance MSCP mitigation lands.

***Conclusion:**

Allowing restoration activities will not only improve the mitigation value of these properties, it will allow the County and District to claim additional mitigation credits for improving connectivity, controlling invasive species, and for upland restoration.

***Recommendation:**

That the Board of Supervisors adopt the Resolution to allow restoration activities to move forward on these properties.

***Fiscal Impact:**

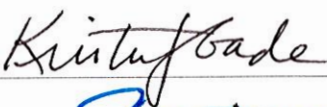

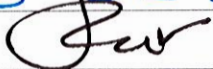
None

***Board of Supervisor District:**

1 2 3 4 5 All

Department: Conservation Lands and Resources Telephone: 520-724-5000

Contact: Jenny Neeley Telephone: 520-724-9487

Department Director Signature:		Date:	8/9/2024
Deputy County Administrator Signature:		Date:	8/14/2024
County Administrator Signature:		Date:	8/15/2024

RESOLUTION NO. 2024-FC- ____

PIMA COUNTY RESOLUTION TO APPROVE AN EXCEPTION TO THE MULTI-SPECIES CONSERVATION PLAN RESTRICTED COVENANT TO IMPROVE WILDLIFE HABITAT AND MOVEMENT

The Pima County Flood Control District Board of Directors finds:

1. Pima County (County) and the Pima County Regional Flood Control District (District) own certain properties (Properties) between I-10 and the Santa Cruz River within the Avra Valley/I-10 Critical Landscape Connection (CLC) identified in the Maeveen Marie Behan Conservation Lands System (CLS). Properties are in close proximity to an unused railroad spur that crosses underneath the I-10, which provides one of the last remaining opportunities in this region to facilitate the safe passage of wildlife under I-10 and help establish a functioning wildlife corridor between the Tucson Mountains and the Tortolita and Catalina Mountains. Properties are known by the following Assessor's tax identification numbers: 22601032B, 22601032C, 22601032D, 22608002A, 22608007P.
2. Certain portions of the Properties have been previously disturbed by development and agricultural activities which have diminished their value to wildlife and the functionality of the CLC.
3. The County, District, and I-10 Avra Valley Mining & Development L.L.C. (Developer) entered into an Economic Development Agreement recorded August 13, 2008, in the records of the Pima County Recorder, Docket 13369, Page 3467 and amended on July 6, 2021, that allows the granting of specific utility easements across certain Properties necessary for development of Developer's property, establishes that restoration and enhancement actions are to be done on certain Properties, and provides County with funds that can be used more broadly to improve the functionality of the CLC.
4. The following actions will be needed to restore and enhance the Properties' value as wildlife habitat and improve the functionality of the CLC:
 - a. grading and excavation activities;
 - b. modification of topography;
 - c. invasive species control;
 - d. revegetation;
 - e. wildlife habitat restoration and improvements including walls and fences;
 - f. granting of sewer and drainage easements agreed to in the 2008 Economic Development Agreement, as amended; and
 - g. relocation of CMID channel and grant of related easements.

5. All Properties are encumbered by the Multi-Species Conservation Plan (MSCP) Master Restrictive Covenant, which is intended “to prohibit uses of the Restricted Properties that would impair or interfere with the mitigation efforts of the County” and to conserve those properties in perpetuity, as required under the MSCP and associated Section 10(a)(1)(A) permit issued under the Endangered Species Act. Such restricted properties are potential MSCP mitigation lands.
6. The MSCP Master Restrictive Covenant places limitations on nearly all of the actions listed above that are necessary to restore and enhance wildlife habitat and the CLC.
7. Section 5.1 of the MSCP Master Restrictive Covenant provides an exception for “Any use of the Restricted Property which the County Board of Supervisors in its reasonable discretion determines is necessary to retain, restore, or enhance the mitigation of incidental take covered by the Permit.”
8. MSCP Section 4.4.3 provides for additional mitigation credits for the “construction of wildlife crossing structures to improve connectivity among populations;” and for “non-native species removal and control efforts that are above and beyond those required in the MSCP.”
9. MSCP Section 5.1.3 states that ecological restoration to improve site specific conditions is necessary “to achieve MSCP goals and ensure the persistence of many covered species in Pima County.”
10. MSCP Section 5.1.3.2. provides for additional mitigation credits for upland restoration efforts on potential mitigation lands.
11. Implementation of the actions listed above that are necessary to improve the functioning of the Properties for wildlife habitat and CLC function will allow the County to seek additional mitigation credits per the sections of the MSCP referenced above.

...

NOW, THEREFORE, BE IT RESOLVED, that the Pima County District Board of Directors finds that allowing the implementation of the above-listed restoration activities on the Properties is necessary to retain, restore and enhance the mitigation of incidental take covered by the MSCP and is therefore allowed under Section 5.1 of the MSCP Master Restrictive Covenant.

Passed and adopted, this _____ day of _____, 20__.

Chair, Pima County Flood Control District Board of Directors

ATTEST:

APPROVED AS TO FORM

A handwritten signature in blue ink, appearing to be 'KJ', written over a horizontal line.

Clerk of the Board

Kyle Johnson, Deputy County Attorney