



DONALD L. WOLFE, Director

COUNTY OF LOS ANGELES

DEPARTMENT OF PUBLIC WORKS

"To Enrich Lives Through Effective and Caring Service"

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February 23, 2006

IN REPLY PLEASE REFER TO FILE: **WR-2**

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

Dear Supervisors:

**REQUEST TO FILE A LAWSUIT TO REQUIRE PRIVATE
LANDOWNERS TO VACATE FLOOD CONTROL PROPERTY
SUPERVISORIAL DISTRICT 5
3 VOTES**

**IT IS RECOMMENDED THAT YOUR BOARD ACTING AS THE GOVERNING BODY
OF THE LOS ANGELES COUNTY FLOOD CONTROL DISTRICT:**

Authorize County Counsel to file a lawsuit to require private landowners to vacate their unauthorized encroachment on property owned by the Los Angeles County Flood Control District.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

This action enables County Counsel to file a court case against private landowners who have encroached on property owned by the Los Angeles County Flood Control District without the District's authorization. The private landowners, Dale and Heather Gibson (collectively "the Gibsons"), jointly own Assessor's Parcel Number 2549-004-021 ("the Property") located in the City of Los Angeles in the vicinity of Wentworth Street and Cottonwood Avenue and adjacent to District property.

In 1998 the District purchased 207 acres along the Big Tujunga Wash in the Sunland area of the City of Los Angeles. The purpose of the purchase was to establish a mitigation bank that would enable the District to obtain mitigation credits from several regulatory agencies to offset impacts from flood control projects within the District's boundaries. The District is in the process of preparing a Mitigation Banking Agreement with the California Department of Fish and Game, the California Regional Water Quality

Control Board, and the U.S. Army Corps of Engineers (“the regulatory agencies”). The Mitigation Banking Agreement requires the District to grant to the California Department of Fish and Game a conservation easement over all acreage in the Big Tujunga Wash Mitigation Bank for which the District is receiving mitigation credits.

In 2001 District surveys of the Big Tujunga Wash Mitigation Bank revealed the Gibsons encroached upon the District’s property. The Gibsons did not obtain authorization from the District for the encroachment and continue to occupy the encroached area. The extent of the encroachment is approximately 15 feet into the District’s property along a length of approximately 300 feet. The Gibsons have constructed lighting, corrals, and stables within the encroachment for a commercial stable they own and operate. This development has rendered the encroached area unsuitable for mitigation credit. Since 2001, the District has attempted to work with the Gibsons to remedy the situation, but the Gibsons have been nonresponsive to the District’s repeated requests to either vacate their encroachment and restore the District’s property to its original condition or compensate the District for its loss of mitigation credits through a property swap. Until this matter of the encroachment is resolved, the boundaries of the conservation easement cannot be defined, thus hindering the finalization of the Mitigation Banking Agreement with the regulatory agencies. To date, the regulatory agencies have demonstrated great patience with the District in regards to the delay in finalizing the Mitigation Banking Agreement. However, the regulatory agencies have also expressed their expectation that the District will resolve in a timely manner the boundaries of the mitigation bank and conservation easement and thus finalize the mitigation banking agreement.

The lawsuit is recommended to require the Gibsons to cease their unauthorized occupancy and use of the District’s land and to compensate the District for removing the encroaching structures and restoring the encroached area to its preencroachment condition.

Implementation of Strategic Plan Goals

This action is consistent with the County Strategic Plan Goal of Service Excellence as it will enable the District to continue to maintain its property and restore its full mitigation value.

FISCAL IMPACT/FINANCING

There will be no impact to the County’s General Fund. The total cost to remove the structures within the encroachment and restore the encroached area at the Big Tujunga Wash Mitigation Bank is estimated to be \$45,000. The funding for any costs not recovered from the Gibsons is included in the 2006-07 Flood Control District Fund Budget.

ENVIRONMENTAL IMPACT

This action will permit the District to comply with environmental requirements imposed by the regulatory agencies to offset the environmental impact of flood control projects within the District's boundaries.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

Section 20.94.030 of the County Code prohibits any person or other entity to use or damage property owned by the District without its authorization. The unauthorized construction of improvements on public property is a nuisance. Moreover, because the encroachment affects "a considerable number of persons" by preventing the District from finalizing the Mitigation Banking Agreement, the encroachment constitutes a public nuisance. Finally, the unauthorized entry onto the land of another constitutes a trespass. Thus, the District can sue the Gibsons to stop the Gibsons' unauthorized entry upon and use of the District's land.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

If this action is not taken to vacate the encroachment, less mitigation credits will be available to offset the environmental impacts of the District's flood control projects.

CONCLUSION

This action is in the County's best interest. Upon approval, please return an adopted copy of this letter to Public Works and County Counsel.

Respectfully submitted,

DONALD L. WOLFE
Director of Public Works

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cc: Chief Administrative Office
County Assessor
County Counsel