

ATTACHMENT #5

California Department of Fish and Game (DFG) Land Management Endowment Stakeholder Workshop Natural Resources Auditorium, Sacramento July 9, 2010

Overview of the Proposed Approaches, DFG's Challenges and Needs

Purpose of this meeting is to hear issues, ideas and workable solutions to endowment management.

A summary of meeting minutes and proposed solutions will be provided via email.

John McCamman- The DFG does not have the resources or expertise to continue to manage the review and oversight of third party managers for its endowments. Furthermore, the DFG is concerned about weaknesses in management of some perpetual endowments during financial crises. There seems to be a misunderstanding and I would like to clarify that this endowment approach affects a very limited scope of CESA permits and conservation/mitigation banks. Funds held by the state will continue to be held by the state in the Special Deposit Fund. These funds are currently held in the state treasury and it is important to understand that they are state assets.

Kevin Hunting – The purpose of this meeting is to provide alternative solutions and identify approaches we may have missed during the development of the proposed endowment approach. This draft policy has a narrow scope and does not include endowments for any other purpose than CESA permits and mitigation/conservation banks. We are holding this workshop to offer additional opportunity for discussion after the Fish and Game Commission meeting [held on June 24, 2010].

Background: About 14 months ago the DFG began the process of evaluating third parties for holding endowments. We quickly realized that we could not address all of the applications. Prior to this time, DFG policy did not allow third party entities to hold endowments for CESA permits and conservation/mitigation banks and all of the funds went into the state treasury Special Deposit Fund.

Why now? Recently the DFG received reports from the eight conditionally approved third party endowment applicants and noticed a lot of variability in endowment fund losses. Additionally, the DFG had a substantial backlog of entities to be approved and lacked the ability and resources to evaluate and manage them.

Why National Fish and Wildlife Foundation (NFWF)? The Renewable Energy Action Team (REAT), which is a multi-agency/Energy Commission team

identified NFWF as a highly qualified entity to hold funds with high accountability standards. The DFG recognized that there could be an impact on some organizations desiring to hold endowments, although very limited. One concern expressed about DFG and NFWF holding funds is the uncertainty how to get monies between the fund manager and the land manager. The DFG had heard of DFG has fielded concerns about this in the past and has successfully addressed them with clear guidance and procedures for handling invoices for funds the DFG holds. In the case of NFWF, funds will be paid upfront annually for management activities. That will address the issue. The majority of third parties [land trusts] have partnered with the DFG do a very good job of managing money and that is not the issue. The issue is the DFG does not have the resources and infrastructure to oversee these endowments. One alternative is the DFG could ask for a fee to pay for state infrastructure for doing due diligence reviews and that cost will have to come from either endowment holders or project proponents.

Tim Dicintio, NFWF – Since the policy came out NFWF has had a number of questions. NFWF was created 26 years ago by Congress. Congress has protocol for every 5 years to re-authorize. Our Board of Directors is made up of 30 members, all confirmed by the White House. NFWF is a private NGO and not a part of the Federal government. NFWF holds about \$100 million invested in a variety of ways and \$300 million overall. Just for clarification, NFWF did submit an application for certification by the DFG. NFWF has not been engaged in this policy decision process and is not taking a policy position. How would NFWF function as endowment holder? These funds would be held as separate custodial accounts and would not be combined with other accounts. Regarding disbursement, advance payment is no problem and our internal system can handle it. If there is an invoice submission process, we can make payment within 30 days or earlier. We have had a number of inquiries on the cap rate. NFWF will not specify the rate and will work with the DFG on an investment policy statement. Regarding the fee structure, there is no agreement in place at this point and it will be a flat and transparent fee regardless of performance.

Stakeholder Input – Solutions

1. Jim Whalen, Building Industry Association of San Diego –
 - Include overlapping jurisdictions and add alternative for others.
 - Determine a minimum level of care.
 - Develop solutions for SoCal
2. Mike McCollum, McCollum Associates –
 - Consistency across agencies, make sure other agencies are on board on wetland policy.
 - DFG take the lead in reaching out to make sure they are on board.
 - Develop consistency on water policy as well.
 - Specifically reach out to the Water Board.
 - Support local governments that are NCCP participants.

3. Sharon Lockhart, Solution Strategies Inc. –
 - Flexibility to use Bonds, Letter of Credit and other long-term funding securities.
 - Criteria for alternatives for commercial sector.
4. Darla Guenzler, California Council of Land Trusts –
 - Consider the approach as an interim process and continue to develop a more universal solution that is comprehensive.
 - Larger process, more interests brought together for long-term process/solution.
 - Consider continuing to utilize the conditionally approved entities.
5. Nita Vail, California Rangeland Trust –
 - Land trust community is most exposed and could provide help with DFG on oversight.
 - Tighter stakeholder group.
 - With one group we would have more administrative fees. Need to figure out how to diversify.
6. Rob Fletcher, Fletcher Conservation Properties –
 - Other funding so we don't get stalled out in the process? Additional investment and what is CAP rate?

(Tina) -1. We have procedures in place to move endowments forward. These procedures are posted on our intranet and our staff will work with you on them. 2. Special deposit fund is low (less than 1%) and we would like this process to resolve it.
7. Patrick Congdon, Santa Clara Open Space Authority –
 - Gather stakeholders to develop solutions.
8. Bill Geyer, Resources Landowners Coalition –
 - Need for diversity and experimentation.
 - Continue to look for alternatives on this ever changing process.
9. Patrick Shea, Wildlife Heritage Foundation –
 - Fatal mistake to separate property owner from endowment.
 - "Outclause" if not paid in appropriate manner so we can give easement back to DFG.
10. Greg Deyoung, Westervelt Ecological Services –
 - Consider Easement oversight funding as a minimum requirement.
 - Set up a revolving contingency fund to ensure adequate oversight.
 - Set minimum duties in the event there is not funding.
11. Ed Flynn, WRLLC –

- Consider an annuity where the state or land trust would get the interest.

12. Scott Spear, Sequoia Riverlands Trust –

- Consider this approach short term and allow a stakeholder committee to propose a final approach.
- Involve a group of independent financial experts in developing a long term solution.

13. Nardy Khan, Orange County Public Works –

- Clarity for local government pilot program.
- Single common contingency fund.

14. Chris Stump, Muzzy Ranch Conservation –

- Consider grandfathering in existing banks for CTS.

15. Ken Lewis, Waste Management –

- Seconds the grandfather solution above.

16. Nicole Byrd, Solano County Land Trust –

- Would like percentage of failures proportional to the number of properties/endowments.

(Kevin) – Most failures are affiliated with Environmental Trust. Overall variation in fiscal during due diligence is how DFG views the risk.

- Allow the 8 approved groups to hold endowments in the interim.
- Use minimum standards of LTA.
- Use Land Trust Commission

Discussion of Proposed Solutions

- The land trusts could help in developing standards for evaluating and overseeing endowment managers.
- Look at the Land Trust Commission as a partner, have long term funding source (?)
- Consider long term impacts for developers who are mitigating.
- Consider charging fees to bankers for submitting applications.