

reconstruct the roadway, provide shoulders, and rehabilitate existing road side drainage ditches within the roadway right of way. The roadway alignment has had minimal adjustment from the original configuration of Blackie Road.

On May 29, 2013, the County was directed by the California Department of Fish and Wildlife (CDFW) staff to halt work on the Project after learning that one juvenile California Tiger Salamander (CTS) had been discovered during construction. This animal was safely relocated outside of the construction zone by a permitted handler on May 24, 2013 in accordance with the requirements of the federal opinion and incidental take statement from U.S. Fish and Wildlife Service (USFWS).

On July 30, 2013 the Board of Supervisors considered a request to prepare documents for conserving 10 acres of Toro Park as habitat mitigation for the Project, and directed staff to study other possible areas that might be bio-equivalent and proportionally appropriate for mitigation. Staff has subsequently investigated a number of options for mitigation, including:

1. Integrate Blackie Road with other Caltrans projects in North County. Caltrans indicated that there was no extra capacity within their existing permits, even for this small amount of area.
2. Outreach to the Big Sur Land Trust, Elkhorn Slough Foundation, and the Monterey Peninsula Regional Parks District to assess if they had mitigation lands available: Using land belonging to Big Sur Land Trust, Elkhorn Slough Foundation, or the Monterey Peninsula Regional Parks District for mitigation would require a guarantee from the County that would fulfill its obligation to provide suitable CTS habitat mitigation.
3. Suitability of Manzanita Park and Fort Ord as CTS habitat: CDFW informed staff that both areas would require site specific biological assessment but initially would not have adequate potential CTS habitat value for mitigation. If found to have habitat value, the ratio of mitigation may be greater than Toro Park, depending on the value of that habitat as determined through the biological assessment.

Using land other than Toro Park for mitigation would require the County to open escrow in an estimated amount of \$421,660 to guarantee to CDFW that the County would fulfill its obligation to provide suitable CTS habitat mitigation. In addition, the land owned by the various foundations would need to be assessed to determine if their land is capable of sustaining CTS habitat. Additional funds besides the \$421,660 would be required to do the biological assessment of any site being considered other than Toro Park. Based on our review, staff has determined that a specified area in Toro Park is the preferred choice. Monterey County negotiated concessions with CDFW to resolve the mitigation issue for this project so that CDFW is allowing the County to proceed with the use of Toro Park without requiring an escrow account or biological assessment.

Staff has also continued to negotiate with CDFW on the habitat requirement. CDFW has recently indicated a willingness to consider reducing the amount of habitat needed in Toro Park to 7.68 acres to correspond to an area in the Park that is open space and has no existing trails. Attached is an aerial photograph with the proposed conservation area identified. This area of the Park was recently inspected by the Directors of Parks and Resource Management Agency to verify the compatibility of Park activities with CTS habitat. As a result of that inspection, the Director of Parks supports the use of the identified 7.68 acre area as CTS habitat. If the use of this land is approved for use as CTS mitigation habitat, the County will be able to expeditiously obtain the Incidental Take Permit from CDFW, and ultimately allow RMA-PW to complete the Blackie Road Safety Improvement Project.

California Tiger Salamander generally travels at night, so that is the period when CDFW would be most concerned of animals crossing trails. Toro Park is closed at these critical times when the animals are moving.

Discussions with adjacent property owners have been initiated. It is staff's assessment that the use of Toro Park as CTS habitat will not affect the current and future planned uses of surrounding properties.

Using land other than Toro Park (not owned by the County) would require staff, prior to opening escrow, to first request approval from both the Board's Budget and Capital Improvement Committees prior to returning to the Board of Supervisors for final approval. In advance of these steps, staff would need to work with the CAO's Budget and Analysis division to determine a funding source for the \$421,660 escrow requirement, and identify resulting impacts to currently budgeted projects, increasing both the costs and time necessary to comply with CDFW requirements and complete the Blackie Road Safety Improvement Project.

OTHER AGENCY INVOLVEMENT:

This matter has included communications between staff from RMA, RMA-PW, the Parks Department, and CDFW. Staff has consulted with the Office of the County Counsel on legal matters. Staff has also engaged in discussions with adjacent property owners, and consulted with Caltrans and other organizations for possible alternative options (BSLT, MPRPD, and Elkhorn Slough).

FINANCING:

Staff time will be required to prepare, review and process easement documents. For mitigation, an estimate from CDFW indicates a cost of \$45,000 to sign and secure the area identified for habitat in Toro Park, and then annual weed management, estimated at about \$5,000/year by CDFW. CDFW will require a line item in the annual budget that shows management costs, and an annual report. Costs for signing, securing, and weed management are not included in the FY 2013-14 approved budget. Resource Management Agency will work with staff from the CAO's Budget and Analysis division and the Parks Department to identify the related staffing and fiscal resource requirements, and return to the Board through the Budget Committee if additional funding is required for related habitat mitigation efforts in the current year. As required by CDFW, annual resource requirements for habitat management will be identified as a line item as part of the budget request development process in future years.

Prepared by: Robert K. Murdoch, P.E., Director of Public Works, (831) 755-4800

Approved by:

Robert K. Murdoch, P.E., Director of Public Works

Approved by:

Benny J. Young, RMA Director

Dated: August 19, 2013

Attachments: Resolution; Location Map (Attachments on file with the Clerk of the Board)

cc: The Office of the County Counsel
Nick Chiulos
Parks Department

California Department of Fish and Wildlife