



October 2, 2008

Mr. William Havert, Executive Director
Coachella Valley Mountains Conservancy
73-710 Fred Waring Drive, Suite 205
Palm Desert, CA 92260

Dear Mr. Havert:

**Final Report—Coachella Valley Mountains Conservancy's Audit of Bond Funds
Proposition 12 and 40**

The Department of Finance, Office of State Audits and Evaluations, has completed its audit of Propositions 12 and 40 bond funds of the Coachella Valley Mountains Conservancy (Conservancy) as of June 30, 2007.

Our draft report was issued September 2, 2008 and the Conservancy's response to the draft report required further analysis. As a result of our analysis, changes were made to the Executive Summary to provide further clarification.

We appreciate the assistance and cooperation of the Conservancy. If you have any questions regarding this report, please contact Frances Parmelee, Manager, or Jennifer Arbis, Supervisor, at (916) 322-2985.

Sincerely,

Original signed by:

David Botelho, CPA
Chief, Office of State Audits and Evaluations

Enclosure

cc: Mr. Bryan Cash, Deputy Assistant Secretary, Resources Agency
Mr. Manuel Lopez, Deputy Director, Department of Parks and Recreation
Ms. Dorothy Kroll, Manager, Accounting Services, Department of Parks and Recreation

AN AUDIT OF BOND FUNDS

Coachella Valley Mountains Conservancy Propositions 12 and 40



Source: Courtesy of the Coachella Valley Mountains Conservancy

Prepared By:
Office of State Audits and Evaluations
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Final reports are available on our website at <http://www.dof.ca.gov>

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EXECUTIVE SUMMARY

In response to the Department of Finance's (Finance) bond oversight responsibilities, we audited the Coachella Valley Mountains Conservancy's (Conservancy) funding under Propositions 12 and 40 as of June 30, 2007. The primary objectives of this audit were to determine whether bond funds were awarded and expended in compliance with applicable legal requirements and established criteria, and to determine if the Conservancy had adequate project monitoring processes.

In general, the Conservancy awarded and expended funds in compliance with applicable legal requirements and established criteria, and has adequate project monitoring processes through the final payment phase.

However, the Conservancy has not implemented a long-term monitoring process for lands acquired with bond funds. The Conservancy has a draft *Monitoring and Management Program Plan* (Plan) which acknowledges the Conservancy's land management oversight responsibilities. Since this Plan is in draft form, not all monitoring procedures developed in the Plan have been implemented. The Conservancy stated it has employed some monitoring efforts; however, poor file management made it difficult for us to verify such efforts. Specifically, at the time of our audit, the Conservancy did not require grantees to submit monitoring-type deliverables. Moreover, documentation of the Conservancy's independent verification of land condition was not maintained in the project files to substantiate active monitoring. Without requiring monitoring-type deliverables and without performing and documenting continuous independent verifications of land conditions, the Conservancy may not be able to protect the state's long-term interest in conservation property.

We recommend the Conservancy require grantees to submit monitoring-type deliverables, such as annual reports on the condition of the lands, or the grantee's fiscal capacity. In addition, the Plan should be implemented immediately after finalization. In the interim, independent verifications of land conditions and other monitoring efforts should take place, and the Conservancy should appropriately document such efforts. With proper ongoing monitoring in place, prompt corrective actions can be taken and costly legal expenses may be avoided.

BACKGROUND, SCOPE, AND METHODOLOGY

Background

Between March 2000 and November 2002, California voters passed four bond measures totaling \$10.1 billion. The Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Act of 2000 (Proposition 12) and the Safe Drinking Water, Clean Water, Watershed Protection, and Flood Protection Act (Proposition 13) were passed on the March 2000 ballot. The California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Act of 2002 (Proposition 40) and the Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002 (Proposition 50) were passed on the March and November 2002 ballots, respectively. These propositions authorized the sale of bonds to finance a variety of resource programs. Administered by a number of state departments, agencies, boards, and conservancies, the proceeds from these bonds support a broad range of programs that protect, preserve, and improve California's water and air quality, open space, public parks, wildlife habitats, and historical and cultural resources. Bond proceeds are expended directly by the administering departments on various capital outlay projects, and are also disbursed to federal, state, local, and non-profit entities in the form of grants, contracts, and loans.

Coachella Valley Mountains Conservancy

The Coachella Valley Mountains Conservancy (Conservancy) was established by the California Legislature in 1990 to protect the mountains surrounding the Coachella Valley from Palm Springs to the Salton Sea. The Conservancy's mission is to acquire and hold, in perpetual open space, lands surrounding the Coachella Valley and to provide for the protection of wildlife resources while providing the public enjoyment of those lands. The Conservancy was allocated a total of \$25 million in Proposition 12 and 40 bond funds to support its resource preservation programs (programs). As of June 30, 2007, a net total of over \$24 million was expended which includes abatement amounts received from other agencies for subsequent sales of acquired lands. The abatement amounts received are returned to the Conservancy's bond fund. In November 2006, voters approved an additional bond measure—the Safe Drinking Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006 (Proposition 84)—which will provide the Conservancy with an additional \$36 million in bond funds. However, no Proposition 84 funds had been expended as of June 30, 2007.

The Conservancy provides grants to qualified nonprofit organizations and local agencies for land acquisitions within the Coachella Valley. The land acquisitions provide for the protection of important areas from conversion into residential, commercial, or industrial real estate development. These land acquisitions allow for restoration and improvements to the natural community within Coachella Valley. Lands acquired with bond funds fall into three categories: (1) state-interest lands, (2) grantee lands, and (3) conveyed lands. See Figure 1 for more details.

Figure 1: Categories of Acquired Lands

State-Interest Lands – Lands either owned by the state by and through the Conservancy or lands on which the state holds a conservation easement by and through the Conservancy.

Grantee Lands – Lands owned by recipients of grants from the Conservancy.

Conveyed Lands – Lands initially owned by recipients of grants from the Conservancy but which have subsequently been conveyed to another entity to be managed in perpetuity for the purposes for which the land was originally acquired by the grantee.

Source: Draft Monitoring and Management Program Plan by the Conservancy

Most of the bond-funded acquisitions have been grantee lands. The Conservancy’s program is designed to work in concert with and coincide with the boundaries of the *Coachella Valley Multiple Species Habitat Conservation Plan/Natural Community Conservation Plan (CVMSHCP/NCCP)*. Figure 2 depicts the CVMSHCP/NCCP area which protects 240,000 acres of open space and 27 species, enhances infrastructure without environmental conflicts, offers opportunities for recreation and tourism, and ensures the survival of endangered species. Using Proposition 12 and 40 grant funds, the Conservancy’s direct acquisition and grant programs conserved over 25,000 acres of strategic open space. The Conservancy continues to complete additional land acquisition projects utilizing bond grant funding.

Scope

The audit was conducted to determine whether bond funds were awarded and expended in compliance with applicable legal requirements and established criteria, and to determine if the Conservancy had adequate project monitoring processes in place.

The audit did not include an assessment of the bond authorization, issuance, and sale processes, or an examination of the efficiency or effectiveness of program operations. Further, no assessment for the reasonableness of the land acquisition costs or the conservation value of the land acquired or projects completed was performed.

Methodology

To gain an initial understanding of key legal provisions and awarding criteria established, we reviewed the program’s legal requirements and program guidelines, written grant management policies and procedures, and the Conservancy’s goals and objectives. We also interviewed executive management and key staff that administered the bond funds to determine how legal provisions and criteria were implemented. To gain an understanding of the land conservation industry, internet resources including the Land Trust Alliance’s website and other state and federal department land acquisition policies and procedures were researched.

Figure 2: Coachella Valley Multiple Species Habitat Conservation Plan/Natural Community Plan Map within the Riverside County



Source: Coachella Valley Multiple Species Habitat Conservation Plan website

In addition, the Conservancy's bond project tracking process was reviewed to assess the completeness and reliability of the project data. Based on our review, we determined the data to be sufficiently reliable for audit purposes. Using the project data, we judgmentally selected and examined 7 out of 55 projects (13 percent) awarded by the Conservancy as of June 30, 2007. While state-interest land was considered, our examination placed more focus on grantee lands—the most common type of land acquired with bond funds.

To assess whether the Conservancy had adequate project monitoring processes, written grant management policies and procedures pertaining to disbursements, grant close-out, and on-going monitoring were reviewed. Using the same sample noted above, we reviewed project files that documented the Conservancy's monitoring efforts. Project files reviewed included documents such as appraisals of fair market value, preliminary title reports, pro forma title insurance policies, subordination agreements, escrow instructions, escrow closing statements, and recorded land titles. We also reviewed fiscal records related to the project monitoring processes. Since the state-interest lands purchased with bond funds are inaccessible by vehicle, we reviewed the Conservancy's method of utilizing the Geographic Information System (GIS) for monitoring purposes.

One grantee—Center for Natural Lands Management—was visited to determine whether it complied with grant agreement requirements. Specifically, interviews with key staff were conducted, documentation was inspected, and site visits of lands were performed.

Recommendations were developed based on our review of documentation made available to us, our observations, and interviews with the Conservancy's management and key staff directly responsible for administering bond funds. This audit was conducted during the period February 2008 through July 2008.

The audit was conducted in accordance with *Generally Accepted Government Auditing Standards* (GAGAS), issued by the Comptroller General of the United States. In connection with this audit, there are certain disclosures required by GAGAS. The Department of Finance (Finance) is not independent of the Conservancy, as both are part of the State of California's Executive Branch. As required by various statutes within the California Government Code, Finance performs certain management and accounting functions. These activities impair independence. However, sufficient safeguards exist for readers of this report to rely on the information contained herein.

In general, the Coachella Valley Mountains Conservancy (Conservancy) awarded and expended funds in compliance with applicable legal requirements and established criteria, and has adequate project monitoring processes through the final payment phase. However, the following observation was identified:

Long-Term Monitoring Processes Are Not Implemented For Grantee Lands

The Conservancy could not demonstrate active monitoring of bond-funded land acquisitions to protect the state's long-term interest in open space land conservation. The Conservancy has taken initial steps ensuring mountainous lands surrounding the Coachella Valley and natural community conservations lands within the Coachella Valley remain as open space in perpetuity. For example, the Conservancy, via a grant agreement, requires the non-profit or local agency (grantee) to use, manage, operate, and maintain the land in a manner consistent with the purpose of the acquisition. The grant agreement also includes a clause allowing the Conservancy recourse for grantee noncompliance with grant agreement terms and conditions. Once land is acquired by the grantee, a Memorandum of Understanding (MOU) is instituted where it is mutually agreed and understood by both parties that the grantee will manage the land in a manner consistent with the Conservancy's mission. A *Monitoring and Management Program Plan* (Plan) has been drafted which will implement a land management plan for lands acquired by the Conservancy or with grants from the Conservancy. See Figure 3 for the elements of the Plan. The Plan is not expected to be finalized until March 2009.

Although the grant agreement, MOU, and the Plan articulate the grantee's monitoring responsibilities and the Conservancy's right of recourse in non-compliance situations, the Conservancy does not require grantees to provide monitoring-type deliverables. Such deliverables should include an annual report on the condition of the land, identification of questionable uses or potential violations of the land, and corrective actions taken if a violation occurred. While there may have been efforts of active monitoring as stated in the Conservancy's Plan, poor file management made it difficult for us to verify the Conservancy's performance of independent verifications of land conditions.

Figure 3: Elements of the Draft Monitoring and Management Program Plan

- Maintain a database of all properties, including a GIS layer showing the location of all the properties.
- Develop a property profile for each property.
- Identify monitoring and management needs and develop a Monitoring and Management Program Plan for each property.
- Implement the Monitoring and Management Program Plan for each property and document its implementation.

Additionally, prior to awarding grant funds and as part of its project monitoring process, the Conservancy does not review or require the grantee to report on its fiscal capacity. According to the Land Trust Alliance's *Land Trust Standards and Practices*¹, a land trust should manage its finances and assets in a responsible and accountable way by ensuring a secure and lasting source of dedicated funds is sufficient to cover the cost of stewarding land over the long term.

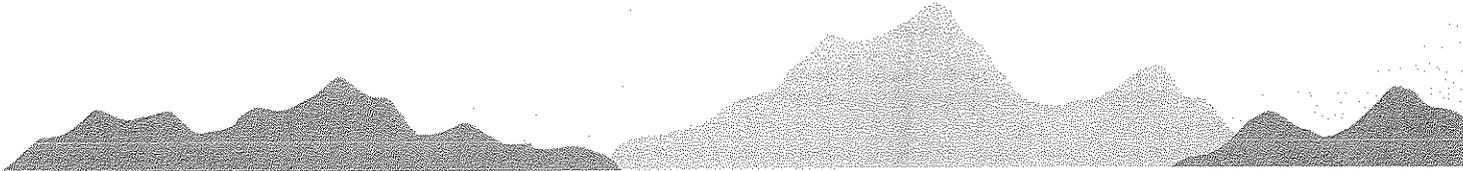
With \$24 million in conservation acquisition expenditures as of June 30, 2007, and Proposition 84 providing the Conservancy with an additional \$36 million for land acquisitions, the Conservancy may face an increasingly high risk of land conservation violations. Such violations as construction of prohibited or unauthorized structures, dumping of waste or debris, and prohibited surface alteration could occur. Further, with the conservation term "in perpetual open space", one of the greatest inherent risks in conservation acquisitions is the potential for conversion of these lands into a manner not consistent with the protection of the land. This risk increases as more time passes beyond the initial land acquisition and subsequent sales.

As the administrator of bond funds, it is vital the Conservancy take a proactive role in ensuring long-term monitoring over bond-funded land acquisitions for the accountability and transparency of bond fund usage. With proper ongoing monitoring in place, prompt corrective actions can be taken and costly expenses, such as enforcement and legal costs, may be avoided.

Recommendations:

- Revise future grant agreements and MOUs to include provisions about monitoring-type deliverables from the grantee, such as annual reports on the condition of the land or periodic reports on the grantee's fiscal capacity to monitor and manage the land. As part of the pre-award process, an initial financial plan of available funds may be employed.
- Implement the Conservancy's Plan immediately after finalization. In the interim, ensure independent verifications of land conditions or other types of monitoring efforts are conducted. Document such activities to substantiate active monitoring.

¹ While the *Land Trust Standards and Practices* (revised 2004) are designed primarily for non-profit, tax-exempt land trusts, they also provide important guidance for any organization or government agency that holds land for the benefit of the public.



COACHELLA VALLEY MOUNTAINS CONSERVANCY

State of California

In partnership to protect our mountain heritage

September 10, 2008

David Botelho
Department of Finance
Office of State Audits and Evaluations
300 Capitol Mall, Suite 801
Sacramento, CA 95814

Re: Draft Report – Coachella Valley Mountains Conservancy’s Audit of Bond Funds
Propositions 12 and 40

Dear Mr. Botelho:

I have reviewed the above-referenced draft audit and have the following response:

- In the 3rd paragraph of the Executive Summary, it states that “the Conservancy has not implemented any of the monitoring procedures developed in the Plan”. However, procedures have begun to be implemented; for example, the Conservancy maintains a GIS data base showing the location of all the properties. We would recommend modifying the report to state, “The Conservancy has not put into place all of the monitoring procedures developed in the Plan, but has initiated implementation”.
- Also in the 3rd paragraph of the Executive Summary and again in the last sentence on page 5 is the statement, “The Conservancy states it has employed some monitoring efforts but poor file management made it difficult for us to verify such efforts.” The characterization “poor file management” is inaccurate. As noted above, we have only recently begun implementing monitoring procedures by establishing a GIS database showing property locations. This is stored on the computer and not in a hard copy file so there is nothing in the file at present. I suggest that a more appropriate statement would be “The Conservancy has initiated implementation of monitoring procedures by creating a GIS database of all property locations with aerial photo imagery depicting the parcels. The next phase of implementation will involve on-site inspections of the properties and creation of a file for each property including a property profile and monitoring and management reports.”

- The first paragraph on page 6 references the Land Trust Alliance's *Land Trust Standards and Practices* as stating that a land trust should be "ensuring a secure and lasting source of dedicated funds is sufficient to cover the cost of stewarding land over the long term". This is certainly preferred; however, it is not always achievable and the grantee's possession of a dedicated funding source for long-term management will be a consideration but not a pre-condition for awarding a grant.
- Regarding the first "Recommendation" on page 6, the recommendation is now being implemented with Proposition 84 grants with respect to requiring annual reports on the condition of the land. The Conservancy also now requires financial reporting on the part of the grantees.
- Regarding the second "Recommendation" on page 6, the referenced Plan, i.e., Monitoring and Management Program, is being implemented for all new bond-funded acquisitions and is in the process of being implemented for all past acquisitions with Proposition 12 and 40 funds. Pre-acquisition site inspections are conducted and documented for all new acquisitions to provide a baseline report on land conditions and for use in developing a monitoring and management plan for the property. To assist grantees with monitoring and managing land acquired with past grants, the Conservancy has developed a monitoring protocol and will be conducting training for grantee volunteers and staff in the fall, after the desert weather moderates, to enable them to initiate annual monitoring of their lands.

Sincerely,

Original signed by:

Bill Havert
Executive Director

Cc: Bryan Cash
Patrick Kemp

EVALUATION OF RESPONSE

The Coachella Valley Mountains Conservancy (Conservancy) provided a written response to our draft report. The response indicated the Conservancy has either implemented or begun to implement corrective action to our observation detailed in the report. We commend the Conservancy for recognizing its needed areas of improvement and its progress towards developing a *Monitoring and Management Program Plan* (Plan).

In response to the Conservancy's comments regarding its monitoring procedures (bullet point #1), revisions to the Executive Summary were made to provide additional clarification. However, we believe our statement is accurate regarding the Conservancy's file management (bullet point #2). During our fieldwork, the Conservancy claimed to have been actively monitoring bond funded lands. In contrast, the Conservancy's draft Plan indicated long-term monitoring was performed on an informal basis and was not systematically documented. Our evaluation of the project files proved that statement to be correct. Project files—which were for the period ending June 30, 2007 and maintained prior to the full implementation of the GIS database—lacked documentation to substantiate the Conservancy's monitoring efforts. Although the GIS database existed, we could not determine whether the GIS database was put into use since project files lacked property profiles, monitoring-type deliverables, aerial photos, or other types of documentation. As a result, we characterized absent documentation as “poor file management.” Additional clarification was made in the Executive Summary regarding this issue.