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January 5, 2011

Ms. Sandra Berry, Supervisor  
Nature Education Facilities Program  
Office of Grants and Local Services  
California Department of Parks and Recreation  
Post Office Box 942896  
Sacramento, California 94296-0001

Via U.S. Mail and E-Mail to [sberr@parks.ca.gov](mailto:sberr@parks.ca.gov)

Re: San Gabriel Discovery Center Authority's Application for Proposition 84 Nature  
Education Facilities Program Grant Funding

Dear Ms. Berry:

We submit this letter on behalf of our client Friends of the Whittier Narrows Natural Area (**Friends**) in advance of the decision by the Office of Grants and Local Services (**OGALS**) on the application of the San Gabriel River Discovery Center Authority (**Authority**) requesting \$7 million in bond moneys under the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006 (**Proposition 84**) for the Authority's controversial Discovery Center project. The Authority seeks this funding under Proposition 84's Nature Education Facilities Program (**NEFP**). We write to strongly object to the Authority's application.

Angel Law currently represents Friends in a citizen suit under the California Environmental Quality Act (**CEQA**; Pub. Resources Code, § 21000 et seq.), challenging the Authority's certification of a final environmental impact report (**EIR**) for the project. The Discovery

Center project (**project**), as described by the Authority in its certified EIR and other documents, essentially consists of the demolition of the existing Whittier Narrows Nature Center; and construction of a 14,000 square foot Discovery Center building, a 116-space parking lot, a covered outdoor classroom, an open air classroom, a 0.67-acre constructed riparian/wetland area and connecting pathways from these locations. According to the Authority's CEQA notice of determination (**NOD**), construction would occur on five acres of an 11.23-acre project site, and habitat preservation and restoration (part of project-approved mitigation) would occur on the balance of the site, i.e., more than six acres. The discovery center building, the 116-space parking lot, the covered and open-air outdoor classrooms and the connecting pathways all are considered "primary project features." (Certified EIR at 2-21; NOD.)

In the present times of economic and state fiscal crisis, the process of applying for government grants is extremely competitive. Given the large number of worthy projects and the finite amount of NEFP grant funds, a grant applicant must prove that its project merits funding. To that end, the applicant must prove to OGALS that a project meets the requirements of Proposition 84 and the Nature Education Facilities Program Application Guide (**Application** or **App. Guide**), and that the applicant is capable of managing grant funds responsibly throughout the life of the project. The Authority fails on both scores. Its application is riddled with serious errors, as well as misstatements and omissions of material information.<sup>1</sup> As for ability to manage grant funds responsibly, the Authority tells us that the RMC will direct project construction and operation. (Exhibit 2 at 82.) But the RMC has been the subject of recent, scathing audits by the California Department of Finance, which reveal unlawful use and mismanagement of state bond funds by the RMC. (See California Department of Finance Audit of RMC Proposition 40 and 50 funds, attached as **exhibit 1**.)

For each one of the reasons shown next, the Authority's application fails to qualify for NEFP grant funds. The Authority's application must be denied.

#### The Authority Seeks NEFP Funding for Project Programming not Tied to Nature Education.

Funds appropriated for legislatively designated purposes, including the purposes set forth in a legislative act that approved a bond issue, must be utilized in accordance with the legislatively designated purposes. (See *Stanson v. Mott* (1976) 17 Cal.3d 206, 213-215.) As enacted by the voters, Proposition 84 does not authorize approval of NEFP grants for facilities or equipment other than "nature education and research facilities and equipment...." What the voters intended, as is evident from the express terms of

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<sup>1</sup> In response to a request under the California Public Records Act, Friends received from the Authority a copy of the NEFP application "signed where appropriate and as sent to State Parks in the application." The application is attached as **exhibit 2**.

Proposition 84, are “buildings, structures and exhibit galleries that present the collections to inspire and educate the public,” and “marine wildlife conservation research equipment and facilities.” (Pub. Resources Code, § 75063, subd. (b); see *id.*, § 75009, subd. (g); App. Guide at 6-7.) Proposition 84 does not authorize funding of projects that include facilities or propose shared uses which are not related to nature education and research. The Authority would have us believe the project is all about watershed education. (Exhibit 2 at 64.) Review of relevant documents tells a different story.

The actual, main purpose of the project is to construct a governance structure and meeting place for Authority member agencies -- a fact noted by public commentators during the EIR review. This purpose becomes evident when one compares the programming offered at the existing Whittier Narrows Nature Center with the proposed programming. While the project is substantially larger than the existing Nature Center, the Authority’s proposed programming adds virtually no new educational programming, yet it adds numerous agency meetings. (See EIR excerpt, attached as **exhibit 3**.) The joint powers authority agreement that gave birth to the Authority speaks about creating a “collective governance structure.” Facilities used for administrative agency meetings are used for just that: administrative agency meetings, not nature education or research.

Also note that the historic Whittier Narrows Nature Center, slated for demolition, *is* a building exhibiting collections inspiring and educating the public. The County’s Environmental Review Board, which carefully reviewed the project and voted against it, found that the existing Nature Center offers “excellent educational and interpretive facilities.” Use of NEFP bond funds to demolish facilities those funds are meant to build is contrary to the intent of Proposition 84, and, as such, a waste of Proposition 84 funds. Moreover, demolition of the Nature Center facilities for purposes other than their “reconstruction” does not amount to “construction or acquisition of capital assets,” and so their demolition may not be debt financed with general obligation bond funds such as Proposition 84 funds. (Gov. Code, § 16727.)

In short, the Authority’s project violates the letter and intent of Proposition 84, State Parks’ Application Guide and Government Code section 16727.

#### The Authority Misstates and Fails to Prove the Need for the Project.

Under the grant application guidelines, one of the main determining factors in how many points are awarded to applicants in Criterion 1 is the extent to which a project will remedy a serious deficiency of educational opportunities in a given community or area. (App. Guide at 37-38.) Without providing supporting evidence, the Authority vaguely claims that there is a need for water resources education in East Los Angeles that can best be served by the project. (Exhibit 2 at 66, 68.) But as shown in a report submitted to the Authority by Mr. Julio Bermejo, a member of the Sierra Club, over 100 environmental education programs,

*including over 24 watershed-focused programs, operate within the 25-mile radius the Authority claims the project will serve. (See Environmental Education Programs chart, attached as **exhibit 4**.) The Authority has made up a nonexistent need for its project.*

#### The Authority Provides an Inaccurate Grant Scope/Cost Estimate.

A grant of NEFP bond moneys “plus additional *committed* funds, must be equal to the funds needed to complete *the project*.” (App. Guide at 8, emphasis added; see *id.* at 26-27 [total funding sources for project must equal *total* project costs]; see also Pub. Resources Code, § 75100.) The Authority violates this critical requirement.

Until its grant application, the Authority consistently referred to the project as proposing the following “primary project features”: construction of the 14,000 square foot Discovery Center building, *as well as* a necessary 116-space parking lot, a covered outdoor classroom, an open air classroom, a constructed riparian/wetland area and connecting pathways from these locations. This is the “project” that was analyzed in the EIR certified by the Authority. This is the “project” that the Authority refers to on its Web site and in a cost summary dated August 10, 2010. (See Cost Plan Report Summary, attached as **exhibit 5**.) Indeed, this project is the “project” as described by the Authority throughout the narrative section of its NEFP grant application. (See, e.g., exhibit 2 at 64, 67.)

Yet in the Authority’s NEFP Grant Scope/Cost Estimate form, it shrinks the “project” to merely the 14,000 square foot Discovery Center building. (Exhibit 2 at 39; see *id.* at 3.) The Authority now falsely identifies the cost of this piece of the project as “estimated total project cost,” listing a price tag of \$12,200,000. (*id.*) Contrast this figure with the Authority’s August 10, 2010 Cost Plan Report Summary (exhibit 5), which lists the estimated total project cost at \$21,628,000.

The Authority’s shell game in its NEFP grant cost estimate conceals a staggering discrepancy between the estimated total project cost it provides OGALS (\$12,200,000) and the actual estimated total cost of the project (\$21,628,000). To qualify for the requested \$7 million NEFP grant, the Authority essentially brushes aside \$9,428,000 in missing funds needed to complete the project.<sup>2</sup>

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<sup>2</sup> In fact, substantially more than \$9,428,000 are missing to complete the project because substantially more than \$21,628,000 are needed to complete it. For example, the Authority’s cost estimate of \$21,628,000 for the actual project makes no allowance for the cost of implementing habitat restoration -- previously much touted mitigation to replace walnut woodland lost due to project design and site planning. (Exhibit 5.) Note that the line item “Sitework” (*id.*) refers to the approximately five-acre impact area, but there is no line item for any site work on the balance of the site where, according to the NOD, the certified EIR and the adopted mitigation monitoring and reporting program, habitat preservation and restoration is supposed to occur.

This \$9,428,000.00 discrepancy alone proves that the Authority violates the requirement that the grant plus additional committed funds be equal to the funds needed to complete the project. (See also CEQA Guidelines, § 15378 [“ ‘Project’ means the whole of an action,” which includes, but is “not limited to public works construction and related activities”].) Oddly enough, the Authority elsewhere in its application notes that separate funding remains to be secured to build the project features other than the main building. (Exhibit 2 at 64). The Authority’s own application thus shows that the \$7 million NEFP grant request plus committed funds still leaves a multi-million dollar funding gap. To qualify for the grant, the Authority must prove millions of dollars in *committed* funds above \$9,428,000.00 to satisfy the requirement that the grant “plus additional committed funds ... be equal to the funds needed to complete the project.” The Authority cannot ask OGALS to pretend this huge funding gap does not exist. An expenditure of public bond funds under false pretenses is an illegal expenditure of such funds.

#### A Piecemealed Project Cannot Operate as Contemplated by the Authority.

Assuming for the sake of the argument that special, countervailing benefits can somehow justify the Authority’s attempt to evade the requirement that there be additional committed funds equal to the amount of dollars needed to complete the project, by severing the Discovery Center building from the whole project, as shown next, no such benefits exist.

#### Parking Lot

The NEFP application guide specifies that, regardless of cost, if a parking lot is to be constructed or renovated, an applicant must list the parking lot as a Major Support Amenity on the Grant Scope/Cost Estimate form. (App. Guide at 22, 58.) Here, the existing parking lot on the project site will have to be eliminated to accommodate project design and layout. The Authority plans to replace this lot with a larger, relocated 116-space parking area. (Exhibit 2 at 67.) But, again, the Authority’s Grant Scope/Cost Estimate makes no mention of a parking lot. (Exhibit 2 at 39.) Because the Authority will replace the existing parking lot as part of the project, it had to disclose the costs associated with the replacement.

Beyond this, because the parking lot is omitted from the Authority’s Grant Scope/Cost Estimate, OGALS lacks any assurance, given the lack of necessary committed funding, that parking can and will be provided. A project without parking creates substantially adverse public access impacts, including impacts for disabled persons. (See Criterion 4 of the NEFP Guidelines at 44-45). Other data provided by the Authority related to access, such as proposed operating hours (exhibit 2 at 78), become irrelevant if the members of the public cannot have transportation access to the project. Without proof that committed funding exists for the parking, the Authority cannot be awarded the NEFP grant.

#### Mitigation Measures

In order to mitigate for loss of wildlife habitat and prevent project runoff from reaching the San Gabriel River -- listed pursuant to Section 303(d) of the federal Clean Water Act (33 U.S.C. § 1251 et seq.) as an impaired water body -- the Authority proposes to construct vegetated drainage swales that will funnel runoff, for treatment, into a constructed wetland. This wetland is part of the project, as defined by the Authority. (Exhibit 2 at 64, 81; NOD; certified EIR.) Like the parking lot, these and other mitigation measures (see fn. 2, *ante*), and costs associated with long-term mitigation monitoring and maintenance were not listed in the Grant Scope/Cost Estimate, meaning that funding is not committed, and the measures may never be implemented. Failing to carry out these mitigation measures, especially the wetland, substantially hampers the Authority's ability to use the project for educational purposes since visitors will be unable to learn from or interact with these features. Additionally, without the vegetated drainage swales and constructed wetland, the Authority will not prevent untreated runoff from flowing into the San Gabriel River.

### Trails

The Authority asserts that the project will connect to existing trails to provide access from other parts of the surrounding Whittier Narrows Recreation Area. (Exhibit 2 at 79-80.) Once again, however, costs associated with trail creation and maintenance were suppressed from the Grant Scope/Cost Estimate. And so, once again, there is no evidence the trails will be built.

Another issue worth noting is that the project will potentially impact a trail built by the County with other state bond funds granted by OGALS under the "Safe Neighborhood Parks, Clean Water, Clean Air and Coastal Protection Bond Act of 2000" (Proposition 12). The Proposition 12 grant agreement between OGALS and the County requires the grant property to be maintained, operated and used in the manner described in the agreement for a period of 20 years, unless the County shows good cause to change the use of the property and obtains written approval from OGALS. (See Proposition 12 Agreement attached as **exhibit 6**, at 7.) While the unsigned lease and sublease of the land encompassing the project site from the County to the Authority appears to provide for an assignment of duties under the Proposition 12 grant agreement to the Authority, the Authority has made no showing that the project will not violate the Proposition 12 Agreement and adversely impact the trails.

### Project Costs Are Improperly Categorized and Misrepresented.

In its Grant Scope/Cost Estimate, the Authority represents that there are no more pre-construction costs for the project. (Exhibit 2 at 39.) This is false. In fact, the Authority

continues to incur exorbitant pre-construction costs, and its Grant Scope/Cost Estimate conceals these costs.

On June 21, 2010, just one week before Authority President Robert Apodaca signed and personally certified as accurate the information contained in the \$7 million NEFP grant application package for OGALS (exhibit 2 at 3), he and his colleagues on the Authority's board unanimously approved pre-construction costs in excess of \$1 million by adopting the Authority's budget for fiscal year 2010-2011. (Exhibit 8 at 1.) In fact, RMC had to amend its \$3 million grant to the Authority of state bond funds from Propositions 50 and 84 several times to increase the percentage of that grant allocated to mounting preliminary costs. For instance, in March 2010, RMC amended its grant to allow up to 39% of the grant to be spent on preliminary costs. In her staff report for that amendment, the RMC's Executive Officer, Ms. Belinda V. Faustinos, wrote that "all *future* preliminary costs [related to the Discovery Center project] are not known at this time." (See Staff report re 4th Amendment to RMC Grant attached as **exhibit 7**, at 2, emphasis added [also stating that the revised preliminary costs grant allocation of 39% would provide for projected preliminary costs through June 30, 2012].) This information puts the lie to the Authority's representation in the Grant Scope/Cost Estimate lodged with OGALS that there are no more pre-construction costs for the project. The RMC's staff report and action to increase the RMC grant limit for preliminary costs show that pre-construction costs are anything but complete.

A June 2010 Authority staff report on the Authority's budget for fiscal year 2010-2011 provides additional, compelling evidence that pre-construction costs are not complete. According to that staff report, "the Authority *will need to secure authority* for an additional \$890,000 to complete the construction drawings for the project, possibly from the Supplemental Environmental Program Funds." (See Staff Report re FY 2010-2011 Budget attached as **exhibit 8**, at 1, emphasis added.) Note the source indicated by the Authority for these additional funds. The "Supplemental Environmental Program Funds" appear to be the same funds the Authority lists as "LA County Sanitation Districts, Local Funds: Supplemental Environmental Project" on the funding sources form in its NEFP grant application. (Exhibit 2 at 41.) If the Authority here refers to the same funds in these two documents, as is likely, committed funds for the project will be further reduced by \$890,000. In other words, the Authority cannot even prove committed funding for the \$12,200,000 Discovery Center building alone.

#### CEQA Costs Incomplete and CEQA Compliance Determination Missing.

The Authority certified the EIR for the project on January 20, 2010. While that might ordinarily mark completion of CEQA costs for an agency, the Authority continues to incur

CEQA costs. On February 19, 2010, within the 30-day statute of limitations of Public Resources Code section 21167, subdivision (c), Friends filed in the Los Angeles County Superior Court a timely lawsuit attacking the Authority's certification of the EIR. (Case No. BS125058.) This lawsuit remains to be decided. It challenges the adequacy of: (1) the final EIR's responses to public comments raising significant environmental issues related to historical resources, biological resources, and hydrology and water quality; (2) the EIR's treatment of impacts related to geology and soils; and (3) the EIR's discussion of mitigation measures (and environmental impacts of those measures) to reduce project impacts to biological resources and water quality.<sup>3</sup>

The Authority is defending the CEQA litigation, and its budget for fiscal year 2010-2011 allocates \$194,000 to "Legal-CEQA (Sohagi)." (Exhibit 8 at 4.) These are pre-construction CEQA costs. Still, the Authority's Grant Scope/Cost Estimate falsely represents that CEQA costs are complete. (Exhibit 2 at 39.)

We note that in the above-mentioned March 2010 RMC staff report for the 4th Amendment to the RMC grant to the Authority, approved by the RMC to finance the Authority's ongoing CEQA costs, RMC reclassified "all future CEQA related costs, including litigation costs" as capital costs rather than preliminary costs. (Exhibit 7 at 2.) But for purposes of the NEFP funding, CEQA costs (as well as design costs) are *pre-construction* costs, not capital costs. (See Administration Guide at 29; App. Guide at 29.) And all such costs must be disclosed and estimated when CEQA compliance is not complete at the time of the application. (App. Guide at 28.) Reclassification of ongoing pre-construction CEQA costs, including fees to pay CEQA attorneys, as "capital costs" is wrong. Ongoing and future CEQA costs cannot be concealed from OGALS by mischaracterizing them as "capital costs."

Moreover, under Proposition 84 itself, "Every proposed activity or project to be financed ... shall be in compliance with the California Environmental Quality Act...." (Pub. Resources Code, § 75070; see App. Guide at 28.) "'Shall' is mandatory and 'may' is permissive." (Pub. Resources Code, § 15.) We respectfully submit that by allowing grant awards and use of Proposition 84 funds to complete CEQA compliance, the Application Guide is inconsistent with Public Resources Code section 75070. (See App. Guide at 28-29.) By the plain language of section 75070, Proposition 84 funding must follow rather than

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<sup>3</sup> Regarding historical resources, Friends challenged the final EIR's failure to respond to significant environmental issues raised by Dr. Jack Bath concerning reinforced water ditches built by Frances Pliny Fisk Temple (1822-1880), a historically significant figure. Dr. Bath's comments provided evidence that should have led the Authority to conduct at least one subsurface archeological survey to determine whether the project may adversely impact 19<sup>th</sup> Century historic resources associated with Pliny Fisk Temple. Further support for Dr. Bath's comments has come recently from an excavation near the project site by Southern California Edison, which has uncovered reinforced water ditches most likely built by Mr. Temple.



precede CEQA compliance; it may not finance CEQA compliance, or, for that matter, finance other project costs unless and until the project is shown to comply with CEQA.

Here, the project is per se ineligible for NEFP funding under section 75070. An EIR for a project may be presumed to comply with CEQA only when no timely CEQA challenge was filed against it. (See Pub. Resources Code, § 21167.2.) As noted, Friends filed a timely CEQA challenge. Therefore, absent a final court decision determining that the project complies with CEQA, OGALS cannot approve the NEFP grant requested by the Authority.

#### The Authority Fails to Establish Project Readiness.

In addition to proof that the project can be completed within the grant performance period, the Application Guide requires proof that the applicant is capable of completing and managing the grant-funded project. (App. Guide at 48.) "PROJECTS will not be considered for funding if [¶] The APPLICANT does not *clearly demonstrate* that they [sic], or their PROJECT MANAGER(S) are capable of completing the PROJECT within the GRANT PERFORMANCE PERIOD." (*Id.* at 49, emphasis added.) The Authority's application states that RMC staff will lead the charge in managing project creation and provides examples purporting to show RMC's experience. (Exhibit 2 at 82.) These are dicey "assurances."

Although the Authority attempts to portray RMC as an agency with a track record of responsibly using bond funds, audits conducted by the California Department of Finance, which investigated the RMC's past use of bond funds, reveal a different, disturbing picture. In 2009, the Department of Finance completed its latest audit of the RMC's use of state bond funds from Propositions 40 and 50. (Exhibit 1 at 1.) The audit reviewed purported attempts by RMC to correct findings of a previous 2006 audit, in addition to investigating more recent activities. As stated by the Department of Finance in the 2009 audit:

"Our [previous] report ... identified significant and material deficiencies in fiscal activities that collectively raised questions about the Conservancy's [RMC's] ability to meet its fiduciary responsibilities over bond funds."

(Exhibit 1 at 11, emphasis added.) The 2009 audit dealt with a situation in which the same individuals form the staff of the RMC and a joint powers authority the RMC helped create. According to the state auditors, this "lack of operational independence ... continues to compromise bond fiscal oversight." (*Id.*) The same scenario repeats itself here: there is a lack of operational independence between the MRC and the Authority it helped create.<sup>4</sup> Furthermore, the 2009 audit addresses two chronic problems -- among other negative findings -- that foreshadow untenable risks should the Authority's application be approved:

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<sup>4</sup> The RMC and the Authority have the same Executive Officer, Ms. Faustinos.

(1) mismanagement of bond funds by the RMC; and (2) insufficient maintenance of bond-funded projects after completion.

Regarding mismanagement of bond funds, the 2009 audit, among other things, chastises the RMC's practice of using bond-funded capital outlay appropriations to subcontract administrative support. Such subcontracting violates the Budget Act, as bond-funded capital outlay appropriations are not authorized for administrative support. Additional support appropriations must be requested through the state's budget change proposal process. (Exhibit 1 at 14.) The RMC's unlawful practice of using debt financing for administrative support operations raises all the more concern as the voters who enacted Proposition 84 intended to strictly limit this practice. They prohibited the use of more than 5% of the funds allocated to any program "to pay the costs incurred in the administration of that program." (Pub. Resources Code, § 75070.5.) As is evidenced by the 2009 audit, it is more likely than not that the RMC's past practice is a prologue of what's to come. OGALS can and should choose to avoid the risk of diversion of more than \$350,000 (5%) of the Proposition 84 bond moneys sought by the Authority to fund the RMC's day-to-day administrative program operations. When the demand for NEFP funds by far exceeds the limited supply of such funds, prudence and preventive action are an easy choice.

As for insufficient maintenance of completed projects, the 2009 audit concludes that the RMC "continues to lack adequate contracting and monitoring procedures." Specific shortfalls found in the 2010 audit include: (1) grant agreements with unclear "project scope, tasks, and budget detail"; (2) failure to ensure that projects are completed as specified in grant agreements; and (3) failure to monitor and maintain completed projects. (Exhibit 1 at 15.) The Department of Finance elaborated on some of these problems (e.g., noting a project where RMC reimbursed the grantee for the entire grant amount despite a failure to complete necessary mitigation measures, and a project where RMC's failure to monitor led to the project being "covered with graffiti . . . weeds . . . and trash." (*Id.*))

The RMC's illegal and wasteful uses of public bond funds, and its neglectful monitoring of completed projects, are compelling grounds for State Parks to deny the requested grant.

#### The Authority Fails to Establish Long-Term Operation and Maintenance.

The Application Guide requires some evidence that the grant applicant is capable of sustaining the project long term, including identification of funding sources for operation and maintenance. (App. Guide at 50.) The Authority's vague claim that it "is well-positioned to sustain the project for the next 26 years" (exhibit 2 at 83) -- a project located within a flood plain and liquefaction hazard zone -- is unsupported by any description or disclosure of any concrete financial plan, much less specific breakdowns of estimated long-term operation and maintenance costs (including cost of educational and research staff

positions, or of habitat restoration and mitigation monitoring). Its claim flies in the face of mounting evidence that the project cannot be sustained long term.

While failing to identify annual funding from three of the Authority's four founding entities, the Authority asserts it has a \$240,000 annual funding commitment from the fourth one, the County. (Exhibit 2 at 84.) That is already \$60,000 less than what Mr. Russ Guiney, the head of the County's Department of Parks and Recreation (**DPR**) had said not too long before completion of the grant application the County would be providing.<sup>5</sup> County nature centers and recreational open-space areas are subject to the vagaries of budget cuts and the County supervisors' priorities. (See, e.g., Hennessy-Fiske, *L.A. County to restrict swimming at 3 lakes*, L.A. Times (July 4, 2009), at <<http://articles.latimes.com/2009/jul/04/local/me-beach-closure4>> [last visited Jan. 4, 2011].) In fact, we have been informed that the County recently cut hours at the Whittier Narrows Nature Center. That comes on top of County DPR-wide cuts in 2009 which have yet to be restored.

### Conclusion

The NEFP grant program implements important public policy. But as the fiduciary of \$100 million in NEFP bond funds, OGALS must protect the public trust and make fiscally prudent choices. Only truthful, well-supported and internally consistent grant applications by competent, responsible applicants, ensuring that the admirable policy objectives and requirements of the law will be fulfilled by a project, qualify for bond funding. The project falls short of the requirements of Proposition 84, and the substantial deficiencies, misrepresentations and deceptive manipulation of cost data in the Authority's grant application, along with the RMC's persistent failure to responsibly manage bond funds, disqualify the project for NEFP grant funding. The Authority's application poorly disguises a misuse of Proposition 84 funds -- one the Application Guide helps to screen out.

Friends requests that OGALS deny the Authority's application. The voters who supported Proposition 84 and California's taxpayers deserve better. Friends further requests written notification to this law firm of any decision made concerning the Authority's application. Friends and its members reserve all rights, claims and available remedies to protect the public's and California's taxpayers' rights under the law, including without limitation, the right to enjoin or recover any illegal, improper, wasteful or ultra vires expenditure of any public bond funds for the project, or sought under the banner of the project.

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<sup>5</sup> At a June 7, 2010, Authority board meeting/strategic planning session, Mr. Guiney stated: "We're offering to this Center a core staff of three employees and *three hundred thousand-plus* a year, and the County is going to continue that on into the future." (Emphasis added.) Of course, Mr. Guiney's statement was not a binding commitment. As we know from the grant application, a few weeks later, 20% (\$60,000) of this "offer" had already melted away.

Sandra Berry  
Office of Grants and Local Services  
January 5, 2011  
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We thank OGALS for the opportunity to present our objections to the Authority's \$7 million grant application.

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Enclosures: 8

cc: David Botelho, Chief, Office of State Audits and Evaluations, California Department of Finance  
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