

Managing Mitigation Endowments

The Department of Fish and Game (DFG) is responsible for administering several regulatory programs that often require a permit applicant to mitigate impacts to natural resources including species listed under the California Endangered Species Act (CESA). Permit conditions often include a requirement to acquire habitat lands to offset the impacts of lands lost or disturbed by the applicants proposed action. To meet CESA adequate funding and full mitigation standards, DFG requires these acquired lands to be managed over time to maintain and improve habitat quality for the target species. An endowment is a method used to generate this annual management funding over long time horizons.

Since the 1990s, endowment funds have deposited in the Special Deposit Fund (SDF) which is invested in the Pooled Money Investment Account (PMIA) by the State Treasurer's Office. DFG mitigation accounts in the SDF contain in excess of \$53 million for approximately 250 separate endowments. Various limitations on the investment of the funds and the short-term nature of the PMIA have resulted in a relatively low average rate of return (annual interest ranged from 1.4 percent to 4.5 percent in the last five years). The lower the rate of earnings on these funds, the higher the initial principal endowment costs for project proponents resulting in less money available for land management activities.

Private sector interests, land trusts and conservancies have argued for years that DFG could not earn enough interest in the SDF to be competitive with private sector investing and management of endowments. Due to the lower interest rate return in the SDF, project proponents, including public agencies, have had to provide substantially more principal for these endowments than if the funds could have been managed by another entity with the ability to achieve a higher rate of return due to greater flexibility in investment options. On the other hand, endowment funds received by applicants become state funds that should be managed for long-term yield and minimal risk with a goal of preserving all of the principal investment. Under pressure from outside entities, DFG began evaluating third parties to hold endowments in early 2009. Financial documents received by DFG in early 2010 and required of the eight conditionally approved entities, revealed excessively risky investments and DFG discontinued the evaluation process and offered either the use of the SDF (with additional flexibility due to 2007 statutory changes), or the National Fish and Wildlife Foundation, a nationwide foundation with congressional oversight and transparency and accountability features similar to the SDF. This action created significant controversy among land trusts and conservancies fearing loss of future revenue-generating potential.

DFG is currently working closely with non-profit and for-profit organizations with a stake in the outcome of this issue to explore alternatives to the two-option policy put in place by DFG. DFG is committed to finding a solution that minimizes the impact of a more secure endowment on partner organizations that provide an invaluable service to DFG in managing and monitoring conservation lands.