

## City's attorney: 'There is a lot of money on the table. Perhaps that might meet everybody's needs'

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The left-for-dead Whittier oil project could be heading back on track.

In a surprise move, the Mountains Recreation and Conservation Authority has asked Whittier and Los Angeles County to sit down and discuss a settlement.

"It would be nice if everyone could figure out a way to make the litigation go away," said James Goldman, the attorney for the MRCA, the large, Santa Monica-based conservancy that won its case against Whittier in June that resulted in a permanent injunction against oil drilling in the 1,280-acre Whittier Hills Nature Preserve.

The MRCA, the county and its partner, the Los Angeles County Regional Park and Open Space District, and Whittier's partners, Matrix Oil Corp. and Clayton Williams Energy, Inc., indeed will be back in court on July 30 for a settlement conference. Heading up the settlement talks will be Los Angeles Superior Court Judge Louis M. Meisinger, a settlement judge.

Goldman would not discuss whether the MRCA would be asking for cash in order to allow the project to go forward. "I don't want to comment on what anyone might ask for," he said Monday. "The process doesn't work unless it is confidential."

While the judge cannot force a settlement, it appears likely that all sides will be talking about how to make the case go away.

The settlement conference comes after Superior Court Judge James Chalfant on June 13 ordered all drilling operations to clear out in 10 days, saying Whittier and its partners acted in violation of an agreement to keep the land as a nature preserve in perpetuity. Chalfant, in a sweeping 38-page ruling, said the city could not drill for oil on land that was purchased using monies raised through Proposition A. The 1992 ballot measure, approved by 64 percent of the county's voters, required land be purchased for habitat preservation, open space and parks. He ruled Whittier was in violation of an agreement to keep land purchased with \$9.3 million of Prop. A funds as a nature preserve and that any other development would violate the public's trust.

Whittier, which had to order Matrix to remove its heavy equipment from the land preserve at the end of Catalina Avenue near Friendly Hills, is delighted that the talks are back on. The city's attorney said the best possible outcome for Whittier and its partners is for a judge to lift the injunction and allow the project to go forward.

"We thought it was a good idea," said James Markman, the city's lead attorney on the case, referring to the upcoming conference in front of the mediator. He said Matrix Oil's attorney also will be at the settlement conference.

"There is a lot of money on the table," Markman said. "Perhaps that might meet everybody's needs."

Markman is so confident that talks will be fruitful that he has carved out two days on his schedule, instead of just one.

Said Goldman: "I suspect it will not go any more than one day."

Normally, settlement conferences occur toward the beginning or middle of a case. This case, filed in February 2012, has been heard in court on several occasions, once for a temporary injunction in January, and later on its merits. Markman has repeatedly suggested that the MRCA would settle for some amount of cash instead of sticking to its principles.

"I'm sure there will be a substantial amount of money involved" during the talks, Markman said.

Whittier has forecasted annual royalties from the project of about \$100 million for 10 years, which would bring the city \$1 billion. City Councilman Bob Henderson put the estimate even higher, at \$1.5 billion. The estimates were in line with the high end of estimated royalties of oil, which is selling at more than \$100 a barrel, according to Mike McCaskey, vice president of Matrix Oil Corp. and a 2011 environmental impact report.

One problem for Whittier and Matrix could be the county, which seems less likely to negotiate.

When the attorney for the county was asked about the settlement conference, he said he had nothing to say.

"I will need to check with Los Angeles County," said Sean Riley, of Glaser, Weil, Fink, Jacobs, Howard, & Shapiro, an outside law firm hired by the county to handle the case.

Sources on both sides of the case said the county was reluctant to go along with the settlement conference, but must attend because it was ordered to do so by the court. "Everybody agreed except for the county," Goldman said Monday.

Markman has repeatedly called the county "unwilling" to negotiate. He hinted that part of the reason could be that whatever the county's lawyers agree to must be approved by the Los Angeles County Board of Supervisors, making the county's participation "more political" than the MRCA's.

What could be bringing the MRCA to the table is the promise of dollars to purchase other plots of land for future preservation. Also, if the oil drilling was allowed to go forward, Matrix would have to spend \$15 million on land it would purchase elsewhere, to make up for damaging the seven acres needed for drilling in the Whittier nature preserve.

Markman said the MRCA is a "savvy organization" that is accustomed to making deals. That is true, especially if one includes its parent, the Santa Monica Mountains Conservancy, the largest conservancy in Southern California. It owns and manages public lands in the western portion of the county. He said Whittier has spoken to the MRCA about the "environmental value" of making a deal.

He also compared the oil and gas drilling project in the Whittier Hills to the SMMC renting out open space for celebrity weddings.

"This is not a foreign notion, using open space for other purposes," Markman said.

If there is no settlement, then most likely the court's final order will be issued. That would likely trigger an appeal by the city of Whittier and Matrix. "We have appealable issues," Markman said.

If a settlement is reached, it would not be the first time a plaintiff against the project had reached a settlement with the city. Last fall, the city settled with the Open Space Legal Defense Fund, a neighborhood group that fought the oil project for two years in court. The group's attorney said they settled in order to allow MRCA and SMMC to move the case forward unfettered.

"It depends on the positions of the parties. It could be a big waste of time," said Geralyn Skapik, who represented OSLDF in the old case. She said the city and Matrix could see the MRCA and SMMC as hurdles to overcome, just like they did the Open Space Legal Defense Fund case.

However, getting past the county Board of Supervisors may be more difficult, she said. Already, Supervisor Gloria Molina has told this newspaper she would vote against oil drilling in the Whittier hills nature preserve.

"My preference is no drilling in open space," she said in June.