

## **SMW Clients Defend Rare Habitat in the San Bernardino Mountains**

by Kevin Bundy

Firm clients Save Our Forest Association, Sierra Club, and San Bernardino Valley Audubon Society recently won a hard-fought court victory in their decades-long effort to protect rare and valuable wildlife habitat near the community of Rimforest in the San Bernardino Mountains.

Nestled along the Rim of the World Scenic Highway, astride the headwaters of Little Bear Creek above Lake Arrowhead, the parcel's old-growth trees and steep, landslide-prone hillsides provide a home for imperiled creatures like the southern rubber boa, California spotted owl, and San Bernardino flying squirrel. The site also provides a critical, undeveloped link in a wildlife corridor connecting wild areas in the San Bernardino Mountains and Mojave Desert to the valleys of San Bernardino County.

The property is owned by the Church of the Woods, a local congregation which has long sought to develop a new worship center and recreational facilities on the site. As proposed in 2019, the Church's plans would eradicate half the remaining habitat, scraping the site's steep hilltop flat and burying the headwaters of Little Bear Creek under nearly 40 feet of rock and fill. Parking lots, access roads, ball fields, and buildings would take the place of ancient trees, a seasonal streambed, rock outcroppings and riparian vegetation. Fencing and other development would further impede wildlife passage through the mountains.

With SMW's assistance, our clients fought this destructive proposal at the San Bernardino County Planning Commission and Board of Supervisors. Noted experts, including a Forest Service biologist with decades of mountain experience and a local water quality expert who documented pollutant loads in Little Bear Creek, and numerous community members also joined the effort. Together, they pointed out the numerous fatal flaws in the County's environmental review of the project. And when the County approved the project anyway, our clients took it to court.

After a multi-day hearing in January 2022, the San Bernardino Superior Court issued a 102-page written ruling finding the County's environmental review and mitigation deficient in a myriad of ways. For example, the County's review incorrectly claimed riparian areas in the Little Bear Creek headwaters would be permanently destroyed by a different County-sponsored drainage project before the Church's project could commence. But the County's drainage project actually required avoiding and restoring damage to the same riparian vegetation that the Church's project would bury forever.

The court also found the County's wildlife analysis and mitigation inadequate. The County's mitigation plan for remaining habitat for the boa, owl, and flying squirrel left important details undefined. Its environmental review also failed to address impacts to the wildlife corridor and a wide range of other sensitive species.

The County's errors didn't stop there. The court also found the project's landslide and geotechnical impacts inadequately mitigated and its water quality impacts on Little Bear Creek improperly analyzed. The County also failed to adequately address whether concentrating a large

number of people on the site could cause serious problems during a wildfire evacuation. Finally, the court found the project's traffic impacts conflicted with the County's General Plan.

The County Board of Supervisors rescinded project approval on July 26, 2022. Although neither the Church nor the County appealed the court's ruling, it is not yet known whether the Church will try to bring the project back in some form. In the meantime, Save Our Forest Association, Sierra Club, and San Bernardino Valley Audubon Society will continue to defend the forests, streams, and wild creatures of the San Bernardino Mountains.

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