

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



FROM: Transportation and Land
Management Agency

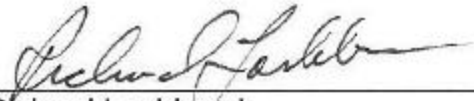
SUBMITTAL DATE: May 28, 2003

SUBJECT: Draft Multiple Species Habitat Conservation Plan, Implementing Agreement,
and Final Direction on Remaining Policy Matters

RECOMMENDED MOTION: That the Board of Supervisors 1) adopt staff recommendations included as Attachment A, 2) provide staff with direction on any remaining policy matters, 3) direct staff to prepare and bring back for approval and certification on June 17, 2003 a Final Environmental Impact Report (EIR) and related findings, a Final Multiple Species Habitat Conservation Plan (MSHCP), a Final Implementing Agreement (IA), and the appropriate Resolution, and 4) direct staff to report back with a MSHCP mitigation fee ordinance on June 17, 2003.

BACKGROUND: At the close of the public hearing on May 8, 2003, staff was directed to convene a meeting with a group stakeholders to resolve a short list of their outstanding concerns and meet with other relevant parties in an attempt to resolve development based "hot spot" issues within the plan area. On May 16, and May 30, staff met with the stakeholder group. Attachment A represents the status of those stakeholder discussions. Where resolutions on specific issues could be achieved, staff has included a specific recommended action. Additionally, Board and TLMA staff met with individuals representing various "hot spot" issues within the plan area. However, at the time of this writing, no resolution to these issues has been reached.

(Continued)


Richard Lashbrook
Agency Director

FINANCIAL DATA:
CURRENT YEAR COST
NET COUNTY COST

\$ -0-	ANNUAL COST:	-0-	
\$ -0-	IN CURRENT YEAR BUDGET:	Yes/	No/
	BUDGET ADJUSTMENT FY:	Yes/	No/

SOURCE OF FUNDS:

C.E.O. RECOMMENDATION:

APPROVE
County Executive Officer Signature



Department Recommendation: Consent Policy
Per Executive Office: Consent Policy

Prev. Agn. ref.

Dist. 1-5

AGENDA NO.

15 2

BACKGROUND: (Continued)

On May 8, members of the Board articulated several specific issues concerning the MSHCP. Listed below are those issues and a corresponding status report:

1. Examine shortening the timeframe within the Habitat Acquisition and Negotiation Strategy

Status: The issue of the limit on acquisition time is a policy issue that the Board of Supervisors and Cities must resolve. A shorter time period is more acceptable to the property owners. The period currently proposed allows greater flexibility for acquisitions to occur. Reducing the four-year period to complete acquisitions for purchases over \$300,000 will increase the risks that funding may not be sufficient to meet the acquisition timelines and that the permit may be revoked or suspended by the Wildlife Agencies.

As currently drafted, the HANS provides for an expedited processing or acquisitions of single family homes and acquisitions of property with purchase price less than \$400,000. Timelines are as follows:

- Single family homes on legal lots – 90 day review
- Property less than \$100,000 - within one year
- Property less than \$200,000 – within two years
- Property less than \$300,000 – within three years

2. Consider a reduction in the number of species covered by the MSHCP?

Status: Included as Attachment B is a memo from the MSHCP consultant advising the County on the ramifications of reducing the list of covered species. Should the Board desire to reduce the list of Covered Species, staff would recommend that only the coyote, black-tailed jack rabbit, and bobcat be removed from the list.

3. Pursue Memorandum of Understanding with those non-Permittee agencies that hold and manage reserve lands.

Status: Legal counsel has prepared a preliminary draft Memorandum of Understanding (Attachment C) and is prepared to initiate the necessary discussions with the non-Permittee agencies that hold and manage reserve lands.

4. Institutional Structure for the Regional Conservation Authority (RCA)

Status: Both WRCOG and the RCHCA continue to express an interest in housing the RCA. On June 9, 2003, representatives from RCHCA and WRCOG will present their respective agency's proposals on the matter. Should either the RCHCA or WRCOG be selected as the joint powers authority to undertake the task of implementing and overseeing the RCA, certain accommodations to their joint powers agreement would be required to accommodate the voting structure, complex series of duties, and timely consideration of the Joint Project/Acquisition Review Process. The IA calls for the RCA to be formed prior to issuance of the Permits, either as a new joint powers authority or as part of an existing joint powers authority.

5. Issues raised by the Pechanga Tribe during MSHCP Public Hearing.

Status: A letter is being prepared in response to the issues raised by the Pechanga Tribe during the MSHCP Public Hearing. Staff anticipates that these issues will be resolved by June 17, 2003.

6. Endangered Habitats League - Alternative Reserve Design Proposal (EHL Proposal)

Status: The small stakeholder group has discussed the EHL Proposal at length during their meetings that occurred subsequent to the MSHCP public hearings. The discussions have focused on developing appropriate language within Section 6.5 of the MSHCP that would allow the EHL Proposal to potentially occur within the context of a Criteria Refinement Process.

7. On-going city outreach

Status: In addition to weekly meetings with the WRCOG City Planning Director's TAC and regular meetings with the WRCOG City Managers' TAC and WRCOG Executive Committee, staff is arranging and attending workshops this month with many of the city councils for the 14 Western Riverside County cities that are identified as Permittees under the plan. A current meeting schedule is included as Attachment D of this report. At the time of this writing, additional meetings are being scheduled.

The purpose of the meetings with the cities is to continue to continue an open dialog and inform them of the salient features of the MSHCP, IA, and draft MSHCP Mitigation Fee Nexus Report. It is expected that the County and the cities would need to take an action on the Final MSHCP, Final IA, and the appropriate implementing ordinances and resolutions in addition to initiating

Form 11 – Draft Multiple Species Habitat Conservation Plan, Implementing Agreement, and Final
Direction on Remaining Policy Matters

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public hearings on the uniform MSHCP mitigation fee ordinance by July or August in order for the state and federal agencies to conclude their necessary analysis, make findings, and finish the requisite paperwork that would enable them to issue incidental take permits by mid-September of 2003.

ATTACHMENT A

Attachment A will be provided after the meeting with the Board appointed stakeholder group, which is scheduled for Friday, May 30.

ATTACHMENT B



*Engineering, Planning,
Environmental Sciences and
Management Services*

Corporate Office:
605 Third Street
Encinitas, California 92024

760.942.5147
Fax 760.632.0164

M E M O R A N D U M

27 May 2003

To : Richard Lashbrook, County TMLA

From: June Collins, DUDEK

Re : **MSHCP COVERED SPECIES LIST**

At the May 8, 2003 Board of Supervisors hearing, Supervisor Tavaglione recommended that the MSHCP Covered Species list be reviewed to consider dropping from the list those more common species that do not appear to be under threat and are highly unlikely to be listed during the life of the MSHCP permit, if ever. There is the perception that inclusion of some of these species, such as coyote, on the Covered Species list, may lead some to conclude that the Plan is funding acquisition of lands and management activities for species that don't require it, increasing the overall costs and burdens of the Plan without any real benefit for Local Permittees as presence of these species within the Plan Area doesn't currently constrain public and private development activities and is unlikely to do so in the future.

In response to this request, DUDEK has reviewed the process used to develop the MSHCP Covered Species list and the potential benefits and shortcomings of a change to the Covered Species list at this point in the MSHCP planning process. Of the 146 species on the Covered Species list, 32 species are currently listed or proposed for listing. The remaining 114 species range from currently very common species such as coyote, to other species currently petitioned for listing such as burrowing owl. Based on what we know today, we believe it is unlikely that as many as 20-40 species on the Covered Species list will be listed in the future. However, given the proposed 75-year term of the MSHCP permit, and past professional experience regarding our ability to predict species that may be listed in the future, it is not possible to anticipate with any degree of accuracy species currently on the Covered Species list that may or may not become listed during the permit term for the MSHCP. Therefore, it seems prudent to maintain as many species on the Covered Species list as possible as long as it can be concluded that such a list would not unduly result in local regulatory burdens and costs of the Plan.

When evaluating whether or not to remove species from the Covered Species list, stakeholders and/or decision makers should consider the following factors:

1. The Covered Species list as proposed was recommended by the MSHCP Advisory Committee after considering various alternatives with a reduced list of Covered Species. The alternatives review concluded that designing a reserve to meet the conservation requirements of the listed and "strong candidate" species would approach the 153,000 acres of Additional Reserve Lands anticipated in the Plan and that acreage reductions associated with a reduced Covered Species list would primarily be in areas such as the Badlands or REMAP where land acquisition costs and conflicts are not expected to be great. Therefore, at the time they made their recommendations, the Advisory Committee seemed to conclude that the benefits of a reduced Covered Species list were less than the benefits of covering the maximum number of species possible which was an original conservation planning objective identified in the Planning Agreement and by the Advisory Committee.
2. Eliminating a few common species from the Covered Species list, such as coyote or black-tailed jack rabbit, would have no effect on land acquisition requirements under the Plan - 153,000 acres of Additional Reserve Lands would still be required. These common species are "freebies" for which conservation needs are met essentially automatically when the MSHCP Conservation Area is assembled and managed in a manner that meets the needs of the listed and "strong candidate" species.
3. Eliminating a larger number of species may reduce acquisition requirements - for example, the MSHCP Alternatives Development Document suggests that Additional Reserve Lands needed for a Covered Species list limited to listed and "strong candidate" species may be about 120,000 acres. Such an alternative may reduce the Covered Species list by 30-50 species. However, it should be noted that such a reduction would involve a new reserve design that has not been analyzed in detail by the Wildlife Agencies and would likely delay the MSHCP review and permit issuance process.
4. Eliminating a few common species from the Covered Species list such as coyote, black-tailed jack rabbit or bobcat, would not appreciably reduce management and monitoring costs for two reasons. First, these are generally Group 1 species for which general management and monitoring measures that will be undertaken for all Covered Species is all that is required. Second, some of these species, such as bobcat, may be "umbrella" or "indicator" surrogate species of overall ecosystem function and health within the MSHCP Conservation Area and it is likely that monitoring of these species would be undertaken whether or not they are on the Covered Species list. For example, the draft guidelines for the Orange County Southern Subregion NCCP identify proposed Covered Species as well as Planning Species. Planning species are anticipated to be monitored along with Covered Species as they may be good surrogates to indicate how well a reserve assembly

and management regime is working for less detectable or readily observable Covered Species.

5. A minor, though not inconsiderable, factor is that changing the Covered Species list at this point would have a ripple effect with respect to editing and producing the Final MSHCP Plan and Implementing Agreement as the list of Covered Species appears in a wide variety of ways and permutations throughout these documents from overall species lists to subsets of survey species, planning species and other subsets within the individual Area Plans and other sections of the MSHCP. While the necessary editorial changes could be made, it would take some time to make the changes and ensure necessary consistency within and between the various Plan documents.

ATTACHMENT C

PRELIMINARY DRAFT MEMORANDUM OF UNDERSTANDING BETWEEN

THE WESTERN RIVERSIDE COUNTY REGIONAL CONSERVATION AUTHORITY,
THE U.S. FISH AND WILDLIFE SERVICE,
THE CALIFORNIA DEPARTMENT OF FISH AND GAME, AND

[INSERT PARTY]

FOR

COOPERATION IN HABITAT CONSERVATION PLANNING AND MANAGEMENT FOR
THE WESTERN RIVERSIDE COUNTY MULTIPLE SPECIES HABITAT CONSERVATION
PLAN/NATURAL COMMUNITY CONSERVATION PLAN

_____, 2003

I PREAMBLE

The Western Riverside County Regional Conservation Authority ("RCA") share a common interest with the California Department of Fish & Game ("CDFG"), the Fish & Wildlife Service ("USFWS") and the **[insert party]** that are signatories to this agreement ("Parties") in sustaining the integrity of regional biological and natural resource systems and the human and economic values they support. Western Riverside County is part of a rapidly urbanizing region, and many biological and natural resource systems that were once common and extensive throughout Southern California are now rare. The challenge of mitigating the effects of urbanization is now falling on inland Southern California, including Riverside County, which has recently seen a dramatic increase in development pressures, yet still maintains a substantial presence of both valuable habitat and endangered, threatened and rare species.

The Western Riverside County Multiple Species Habitat Conservation Plan ("MSHCP") is designed to meet the challenge of rapid urbanization by providing for the conservation of significant habitat and the preservation of endangered, threatened and rare species in a coordinated and efficient manner. The MSHCP Plan Area encompasses 1.26 million acres and includes all unincorporated County land west of the crest of the San Jacinto Mountains to the Orange County line, as well as the jurisdictional limits of the Cities. The MSHCP will serve as a Habitat Conservation Plan ("HCP") pursuant to Section 10(a)(1)(b) of the Federal Endangered Species Act of 1973, as well as a Natural Community Conservation Plan ("NCCP") under the NCCP Planning Act.

Instead of piecemeal mitigation efforts, the MSHCP will provide large contiguous blocks of habitat to more effectively ensure the survival of targeted endangered, threatened and rare species. Area developers will benefit from the assurance provided by USFWS and CDFG, as well as a streamlined process for complying with applicable federal and state mandates. The citizens of Riverside County and the participating Cities will further benefit from this planned growth because it will create new economic opportunities while also preserving important open space and recreation opportunities, and maintaining the area's quality of life.

II. PURPOSE OF THE AGREEMENT

Efforts to coordinate conservation programs among local, State, and Federal agencies in California are well-established. In 1991, *The Agreement on Biological Diversity* created an Executive Council on Biological Diversity. Cooperation among the agreement's forty members, including Federal, State, and local representatives, exemplifies California's commitment to cooperative ecosystem management. This Memorandum of Understanding ("MOU") builds on this example by establishing a partnership between the RCA, CDFG, USFWS and the [TBD] to cooperate in the implementation of the MSHCP. This MOU encourages the exchange of information regarding "Public/Quasi-Public" ("PQP") lands, defined by the MSHCP as those lands within the MSHCP Plan Area known to be in public ownership that are managed for conservation and/or open space value, or land contained in an existing reserve. (See, e.g., MSHCP Draft EIR/EIS Figure 2.8; see also Draft EIR/EIS, p. 4.1-10.) Existing reserves and conservation areas are shown in Figure 2.3 on page 2.3-5 of the Draft EIR/EIS. Further, this MOU provides an agreement for jointly managing the MSHCP Conservation Area and PQP lands for the benefit of Covered Species. Finally, this MOU provides a method for resolving disputes between parties to this MOU.

III. AUTHORITY

This MOU does not modify or supercede existing statutory direction of the signatories.

IV. POLICIES AND PRINCIPLES

This MOU recognizes the following set of policies and principles:

- A. [TBD] agrees to coordinate with the other parties to this MOU regarding lands within the MSHCP Plan area.
 1. The RCA, USFWS, and/or CDFG agree to provide any available digital files and hard copy maps of such lands to the same upon request. [TBD] likewise agrees to provide the RCA, USFWS and CDFG any available digital files and hard copy maps of the same.
 2. [TBD] further agrees to provide any further information they possess regarding types of vegetation and quality of vegetation on the lands they manage within the MSHCP Plan Area to the RCA, USFWS and CDFG or the MSHCP Reserve Oversight Management Committee. ("RMOC")
- B. [TBD] agrees to participate fully as a member of the RMOC, as set forth in Section 6.6.4 of the MSHCP.
- C. [TBD] agrees to work with the other parties to this MOU and the RMOC to ensure the development of a coordinated approach for managing PQP lands in a cooperative manner consistent with the goals and objectives of the MSHCP.

- D. If any land management prescriptions of [TBD] are found to be inconsistent with MSHCP objectives and requirements, the Parties will work collaboratively to resolve the inconsistencies.
1. The Parties will make every effort to expeditiously resolve any disagreements. If resolution cannot be accomplished promptly during regularly scheduled meetings and conference calls, a further attempt to reach resolution will be promptly attempted in a interim meeting or conference call dedicated to the purpose of resolving the disagreement.
 2. If the Parties cannot reach agreement on any issue, including but not limited to management of public and/or quasi-public lands within the MSHCP Plan Area, after completing an interim meeting or conference all, the Parties agree to elevate the decision to successively higher levels within each organization until consensus is reached.

V. MODIFICATIONS

The MOU is to remain in effect until modification by the parties in writing; it is negotiable at the option of any of the parties.

IN WITNESS WHEREOF, the parties hereto have executed this Memorandum of Understanding on the date first herein above written.

UNITED STATES DEPARTMENT OF
INTERIOR, FISH AND WILDLIFE
SERVICE

WESTERN RIVERSIDE COUNTY
REGIONAL CONSERVATION
AUTHORITY

By: _____
Deputy Manager
California/Nevada Operations Office

By: _____
Chair of the Board

CALIFORNIA DEPARTMENT OF FISH
AND GAME

[TO BE INSERTED]

By: _____
Deputy Director
Habitat Conservation Division

By: _____

ATTACHMENT D

PRESENTATIONS TO WESTERN RIVERSIDE COUNTY CITY COUNCILS RCIP MSHCP UPDATE

May 13, 2003, at 7:00 p.m.

City of Riverside
Riverside City Hall
3900 Main Street
Riverside, CA 92522

May 19, 6:00 p.m.

City of Calimesa
Norton Younglove Community Center
908 South Park Avenue
Calimesa, CA 92320

May 21, 2003, 7:00 p.m.

City of Norco
City Council Chambers (Behind City Hall next to School Dist.)
2820 Clark Avenue
Norco, CA

May 27, 2003, 6:00 p.m.

City of Perris
City Council Chambers
101 North "D" Street
Perris, CA 92570

May 27, 2003, between 7:00 and 8:30 p.m.

City of Hemet (Police Dept. Building)
450 E. Latham
Hemet, CA

June 3, 2003, 6:00 p.m.

City of Murrieta
City Council Chambers
26442 Beckman Court
Murrieta, CA 92562

June 12, 2003, 2:00 p.m.

City of Lake Elsinore
Lake Elsinore Cultural Center
183 N. Main Street
Lake Elsinore, CA

June 17, 2003, 6:00 p.m.

City of Moreno Valley
Council Chambers
14177 Frederick Street
Moreno Valley, CA 92552

June 19, 2003, 7:00 p.m.

City of San Jacinto
San Jacinto Unified School District
2045 S. San Jacinto Avenue
San Jacinto, CA