

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

861



FROM: Transportation and Land Management Agency

SUBMITTAL DATE:

January 20, 2004

SUBJECT: Western Riverside County MSHCP/Regional Conservation Authority

RECOMMENDED MOTION: That the Board of Supervisors approve the Joint Powers Agreement establishing the Western Riverside County Regional Conservation Authority attached hereto as Exhibit "C" and authorize the Chairman to execute this Agreement.

BACKGROUND: On October 7, 2003, the Board of Supervisors considered four alternatives/organizational structures for the Regional Conservation Authority (RCA). At that time, the Board unanimously approved Alternative 4 with certain revisions to an informational diagram concerning the WRCOG Executive Director's role with the RCA Board. Please see Form 11 and minute order included as Exhibit "A". As you may recall, Alternative 4, followed the CVAG model utilizing WRCOG and the RCHCA. This Alternative provides for the execution of a joint powers agreement establishing the RCA as a separate joint powers authority utilizing the existing WRCOG Executive Committee as the RCA Board and providing for an advisory committee incorporating representatives from the RCHCA Board. Additionally, the Board requested that the agreement establishing the RCA contain a voting structure similar to RCTC's which provides for a division of the house.

Departmental Concurrence

(Continued)
Attachments

Richard Lashbrook
Richard Lashbrook
Transportation and Land Management Agency Director

FINANCIAL DATA	Current F.Y. Total Cost:	\$	In Current Year Budget:
	Current F.Y. Net County Cost:	\$	Budget Adjustment:
	Annual Net County Cost:	\$	For Fiscal Year:

SOURCE OF FUNDS:	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION: APPROVE

County Executive Office Signature

James P. Pugh

- Dep't Recomm.: Consent
- Per Exec. Ofc.: Consent
- Policy
- Policy

COUNTY OF RIVERSIDE
OFFICE EXECUTIVE

BACKGROUND: (Continued)

On December 1, 2003, this matter and the Board's recommendations were considered by the WRCOG Executive Committee. At that time, the WRCOG Executive Committee recommended approval of a joint powers agreement establishing the RCA with certain revisions. Please see attached transmittal dated December 10, 2003 from the WRCOG Executive Director to WRCOG's member agencies which is included as Exhibit "B". This transmittal highlights the revisions made by the WRCOG Executive Committee and is consistent with the recommendation approved by the Board on October 7.

Included as Exhibit "C" is a clean version of the joint powers agreement recommended for approval by the WRCOG Executive Committee on December 1. It is also the understanding of staff that the following cities have approved and executed this version of the agreement: Canyon Lake, Hemet, Moreno Valley, and Temecula. Since this agreement, as revised, is consistent with the Board's action on October 7, it is recommended that it be approved and that the Chairman be authorized to execute it.



Western Riverside Council of Governments

County of Riverside • City of Banning • City of Beaumont • City of Calimesa • City of Canyon Lake
 City of Corona • City of Hemet • City of Lake Elsinore • City of Moreno Valley • City of Murrieta
 City of Norco • City of Perris • City of Riverside • City of San Jacinto • City of Temecula

Date: December 10, 2003

To: Members, WRCOG Technical Advisory Committee

From: Rick Bishop, Executive Director *Rick*

Subj: **Final Draft JPA Establishing the Regional Conservation Authority**

Enclosed please find a final draft copy of the JPA establishing the Regional Conservation Authority for purposes of implementing the Multi Species Habitat Conservation Plan. A "clean" copy as well as a "marked" copy recording the most recent changes to the document as a result of the WRCOG Executive Committee meeting held on December 1 are enclosed.

The final draft JPA reflects the following recommendations made by the WRCOG Executive Committee:

Section 7.A. (Meetings): Last sentence not necessary and deleted, given that RCA Board will set its meetings by resolution, and all previous discussions have focused on having RCA Board meetings convene immediately after WRCOG Executive Committee meetings.

Section 7.C. (Quorum and Voting): language added "... and prior to the start of the next item on the agenda..." clarifies the process for any member calling for a division of the house / weighted vote.

Section 7.C.III. (Quorum and Voting): Revised language reflects endorsement of division of the house / weighted voting with incorporated area weighting based on equal proportion of population and MSHCP acreage expected to be conserved in incorporated area.

Section 10. (Executive Director): Provides clarification that RCA Board has final determination of the appointment of Executive Director.

Section 15. (Funding Coordination Committee): Adds language that allows the RCA Board to expand the membership of the Committee, if desired.

As conveyed to you via previous correspondences and as included in the Executive Committee Meeting Recap, the organizational structure and relationships among the new RCA Board, MSHCP staff, WRCOG, and others will be determined by the RCA Board, most likely shortly after it convenes for its first meeting (which I would anticipate would occur early in 2004).

With this final draft document being transmitted, Cities and the County now have all of the documents needed for adoption that will enable participation in the MSHCP. For the County and those Cities that have already approved the MSHCP, it will be necessary to agendaize the JPA document for consideration by the Board of Supervisors / City Councils. For those Cities that have yet to consider the MSHCP and are scheduled or will schedule in the near future, the completion of the RCA JPA provides the opportunity to act on all pertinent MSHCP documents at one time.

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




FROM: Transportation and Land Management Agency SUBMITTAL DATE: October 2, 2003
SUBJECT: Western Riverside County MSHCP/Regional Conservation Authority Alternatives

RECOMMENDED MOTION: That the Board approve and authorize the chairman to execute the Joint Powers Agreement establishing the Western Riverside County Regional Conservation Authority as discussed in Alternative 4 and attached hereto as Exhibit C and the amended WRCOG Joint Powers Agreement attached hereto as Exhibit D.


BACKGROUND: During the public hearing concerning this matter on September 23, the Board requested that staff report back with an analysis of three proposed organizational structures/alternatives for the Regional Conservation Authority (RCA). Staff has added a fourth alternative. These structures/alternatives were identified as:

1. The WRCOG Proposal – Amend the WRCOG Joint Powers Agreement and execute a WRCOG Implementing Agreement which treats the MSHCP as a program under WRCOG's Executive Committee, Executive Director and Committee structure, including the MSHCP Advisory Committee composed of Riverside County Habitat Conservation Agency (RCHCA) Board Members and others. (See Amendment to WRCOG Joint Powers Agreement, WRCOG Implementing Agreement and organizational structure set forth in Exhibit A attached).

(Continued)
Attachments

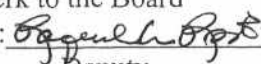

RICHARD LASHBROOK
TLMA Director

C.E.O. RECOMMENDATION: **APPROVE**


County Executive Office Signature

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Wilson, seconded by Supervisor Tavaglione and duly carried by unanimous vote, IT WAS ORDERED that the Board approves Alternative 4 with a modification to the chart to have the line from the WRCOG Executive Director to the RCA Board be a dotted line, an informational line rather than a line of authority, and that staff send that concept to WRCOG for Board consideration along with the requirement that we have a voting structure similar to RCTC which gives a division of the house split to cities or county.

Ayes: Buster, Tavaglione, Venable, Wilson and Ashley
Noes: None
Absent: None
Date: October 7, 2003
xc: TLMA, WRCOG
By: 
Deputy

Prev. Agn. Ref. 15.1 of 9-23-03

Dist. All

AGENDA NO.

15.1

Department Recommendation: Policy Policy
 Consent Consent
Per Executive Office:

October 2, 2003

Staff Comments – This approach provides clear lines of authority, takes advantage of the RCHCA's experience and is consistent with the Board's previous actions and those of the WRCOG and RCHCA Boards. However, it does not address the concerns about a single joint powers authority administering both TUMF and MSHCP fees.

2. The Wanczuk-Barton Compromise – Amend the WRCOG Joint Powers Agreement and execute a WRCOG Implementing Agreement which treats the MSHCP as a program under WRCOG's Executive Committee, the aforementioned MSHCP Advisory Committee and a RCA Program Manager. The RCA Program Manager would report directly to the Executive Committee and MSHCP Advisory Committee and would provide coordination of actions with the WRCOG Executive Director. (See Ms. Wanczuk-Barton's letter and organizational structure set forth in Exhibit B attached.)

Staff Comments – This approach raises the question of the relationship of the WRCOG Executive Director and the RCHCA Executive Director. While a direct line of authority from the RCA Executive Director to the WRCOG Executive Committee could allow better communication of MSHCP related issues, it would raise the question of coordination and the use of WRCOG committee resources. The approach is consistent with the Board's previous actions; however, it is a change from the initial WRCOG proposal endorsed by the Executive Committee. It does not address the concerns about a single joint powers authority administering both TUMF and MSHCP fees.

3. The Coachella Valley Association of Governments (CVAG) Model – Execute a joint powers agreement which establishes the RCA as a separate joint powers authority. CVAG is the lead agency currently preparing a multiple species habitat conservation plan for the Coachella Valley. CVAG's draft Multiple Species Habitat Conservation Plan calls for the establishment of a separate joint powers authority to be staffed by CVAG for the first five years. CVAG will serve as staff for this separate joint powers authority since CVAG's staff assisted in preparation of that plan. The RCA joint powers agreement could provide for the establishment of the RCA as a separate joint powers authority to be staffed by the County for the first three years (the Western Riverside County MSHCP requires the County to provide staff for the first three years to the RCA). This agreement would allow for each City to appoint one member to serve on the RCA Board. Should a City so choose, it could appoint its WRCOG Executive Committee member or, alternatively, its RCHCA Board member to serve on the RCA Board. Meetings could be coordinated with WRCOG in an effort to streamline the process. A separate joint powers authority affords that entity the ability to act independently and avoid the potential for TUMF fund exposure resulting from MSHCP related litigation.

Staff Comments – This approach provides clear lines of authority but creates the potential for RCA, WRCOG and RCHCA to operate independently resulting in duplication and a lack of coordination. It is not consistent with previous direction from the Board of Supervisors, WRCOG Executive Committee or the last action taken by RCHCA. The creation of a separate JPA does address the concern raised by County Counsel and some cities as to the legal separation of MSHCP and TUMF fees. It reduces the risk that legal challenges to one program could place the funds of another program at risk.

4. The Coachella Valley Association of Governments (CVAG) Model – Utilizing WRCOG and the RCHCA – Execute a joint powers agreement that establishes the RCA as an separate joint powers authority but utilizes the existing WRCOG Executive Committee as the Board for the JPA. Under this arrangement it is not necessary to have a new body of elected officials established. (See joint powers agreement and organizational structure set forth in Exhibit C attached). The joint powers agreement attached for the

Board's consideration provides for the establishment of the RCA as a separate joint powers authority to be staffed by the County for the first three years (the Western Riverside County MSHCP requires the County to provide staff for the first three years to the RCA). To coordinate the activities of the RCHCA and the RCA, the use of an advisory committee as discussed under Alternative 2 is recommended at the discretion of the RCA Board. The involvement of the RCHCA Board members would allow their experience to contribute to MSHCP implementation and allow coordination of management, monitoring and land acquisitions between the agencies.

Utilizing the WRCOG structure to coordinate involvement of the City and County staff and managers avoids duplication of committees. A separate joint powers authority affords that entity the ability to act independently and avoid the potential for TUMF fund exposure resulting from MSHCP related litigation.

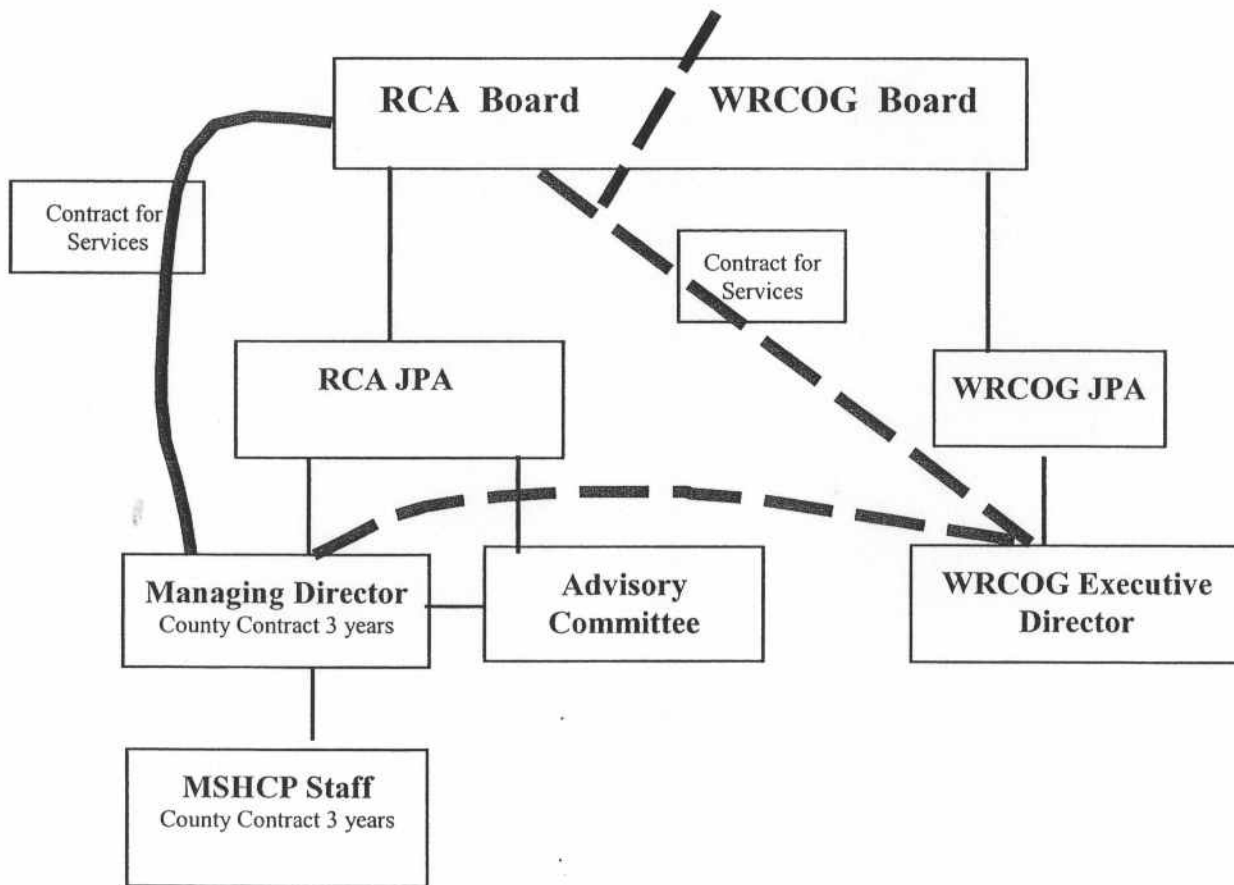
Under this approach the RCA would be an independent legal entity; however, coordination of the administrative functions within WRCOG is important and needs to be addressed. The new joint powers authority provides for the RCA Board to contract with WRCOG for administrative and personnel services. This contract as envisioned would give the WRCOG Executive Director the ability to negotiate a second contract on behalf of the RCA to provide management and staffing for the RCA or to recruit staff after the first three years. (The Western Riverside County MSHCP requires the County to provide staff for the first three years to the RCA.) If at any time the Managing Director position is not filled, the WRCOG Executive Director could act as the RCA Managing Director. The RCA Managing Director position would function with direct reporting responsibility to the RCA Board on a regular basis but within the WRCOG structure would report to the WRCOG Executive Director. It can best be described as similar to a city or county redevelopment agency where the Redevelopment Agency Director makes reports to the City Council / Board of Supervisors but is responsible to the City Manager / County Chief Executive Officer.

Staff Comments – This approach provides clear lines of authority and avoids the duplication of existing WRCOG structures. The approach is consistent with the Board's previous actions. It is not consistent with previous direction from WRCOG Executive Committee or the last action taken by RCHCA. The creation of a separate joint powers authority does address the concerns raised by County Counsel, some cities and stakeholders about a single joint powers authority administering both TUMF and MSHCP fees. It reduces the risk that legal challenges to one program could place the funds of another program at risk.

County Counsel and WRCOG have reviewed the existing WRCOG Joint Powers Agreement and proposed modifications that will strengthen the WRCOG JPA as it begins to implement major programs such as TUMF and the MSHCP.

It is recommended that the Board support the fourth alternative and execute the RCA Joint Powers Agreement set forth in Exhibit C and amended WRCOG Joint Powers Agreement set forth in Exhibit D. This organizational structure streamlines and eliminates duplication while providing the best legal protections to the Cities and the County.

Alternative 4



REVISED ORGANIZATIONAL CHART RECOMMENDED BY BOARD

10/7/03 - 15.1