

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

234



**FROM:** TLMA

**SUBMITTAL DATE:**  
February, 7, 2005

**SUBJECT:** Update re: MSHCP implementation issues, including use of grading permits as a triggering mechanism to establish MSHCP compliance.

**RECOMMENDED MOTION:** That the Board of Supervisors direct TLMA and County Counsel staff to coordinate with WRCOG and RCA regarding City MSHCP implementation experiences and for staff to consult with the RCA in the development of alternatives for implementation and to return to the Board of Supervisors for consideration of alternative solutions in concert with the scheduled April 18<sup>th</sup> MSHCP Board Workshop.

**BACKGROUND:** The Federal and State Permits for the Western Riverside County MSHCP were issued on June 22, 2004 thereby obligating the County to commence implementation of all of the requirements of the MSHCP. These requirements apply to discretionary development projects and include cell/criteria consistency review (Habitat Evaluation and Acquisition Negotiation Strategy or HANS), riparian/riverine area and vernal pool assessments, assessments and/or surveys for various species, and in many cases joint project review (JPR) by the Regional Conservation Authority.

(Continued page 2)

Tony Carstens  
TLMA Director

Karin Watts-Bazil  
 Departmental Concurrence  
 Concur: County Counsel:

<b>FINANCIAL DATA</b>	Current F.Y. Total Cost:	\$ N/A	In Current Year Budget:	N/A
	Current F.Y. Net County Cost:	\$ N/A	Budget Adjustment:	N/A
	Annual Net County Cost:	\$ N/A	For Fiscal Year:	N/A

<b>SOURCE OF FUNDS:</b> N/A	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**

Policy  
 Policy  
 Consent  
 Consent

COUNTY OF RIVERSIDE  
 FEB - 7 2005 3:11 PM  
 OFFICE EXECUTIVE

Dep't Recomm.: \_\_\_\_\_  
 Per Exec. Ofc.: \_\_\_\_\_  
 Prev. Agn. Ref.: \_\_\_\_\_ District: \_\_\_\_\_ Agenda Number: **15.1**

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### **Background Continued:**

The County has had in excess of six months experience in implementing the provisions of the MSHCP and based on that experience, it may be necessary to further evaluate the range of implementation requirements and options. For example, grading permits issued by the County are discretionary actions pursuant to Ordinance No. 457. Thus, they must be consistent with the requirements of the MSHCP.

During the implementation efforts by County staff, it has become apparent that many developers and property owners have assumed that if they had a tentative map approved by the County prior to the adoption of the MSHCP, that they were for purposes of the MSHCP effectively exempt from the provisions of the MSHCP and HANS review. However, according to the MSHCP, grading permits issued by the County must comply with MSHCP provisions. Additionally, some of the Cities implementing the MSHCP classify a grading permit as ministerial versus discretionary actions. This results in a potentially inequitable situation for the County, as those jurisdictions do not require MSHCP consistency review at the time of grading permit issuance.

To date, County staff has been working with developers and property owners to assist them in understanding and meeting MSHCP requirements, and in instances where grading permits are the trigger mechanism for MSHCP consistency review, staff has extended extra effort to assist applicants in understanding and achieving compliance with the requirements. However, there are misconceptions as to requirements and confusion continues to cloud the issues and this all needs to be addressed in a more comprehensive manner. It is apparent that the requirements of the MSHCP need to be more clearly communicated to the development community.

For these reasons, it may be appropriate to confront head-on the application of the MSHCP to grading permits and other issues related to projects that had received previous approvals prior to when the state and federal MSHCP permits were issued. With Board approval, staff will identify and pursue alternative solutions to address the inequities and uncertainties surrounding the grading permit and other MSHCP implementation issues. It is one of staff's goals to discover or develop a path, for the Board's consideration, whereby grading permits are no longer treated as one of the triggering mechanisms for MSHCP review and compliance, thus putting the County on equal footing with Cities. Staff also needs to evaluate the implications on take authorization relative to these projects.

Finally, the outcomes of this review may or may not result in changes or adjustments to MSHCP implementation. At minimum, however, it is appropriate to reconfirm for all interested parties the status of projects that had received previous approval (those projects that had tentative map and other approvals that predate the effective date of the MSHCP permits). Staff should also identify the level of review that will be required by the County for future approvals related to those projects. It is worth noting that at this time, staff does not want to raise expectations or concerns that this review will result in alterations to MSHCP implementation. It is, however, necessary to identify the issues and present the Board with alternatives.