

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



**FROM:** Supervisor Jeff Stone

**SUBMITTAL DATE:** December 18, 2012

**SUBJECT:** A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF RIVERSIDE TO ESTABLISH ADDITIONAL GUIDANCE AND PROCEDURES FOR IMPLEMENTATION OF THE WESTERN RIVERSIDE COUNTY MULTIPLE SPECIES HABITAT CONSERVATION PLAN

**RECOMMENDED MOTION:**

1. That the Board of Supervisors ADOPT Resolution No. 2012-254 which establishes and provides additional guidance and procedures for the implementation of the Western Riverside County Multiple Species Habitat Conservation Plan.
2. That the Board of Supervisors direct staff to initiate proceedings for a general plan amendment to assure that future general plan amendments achieve general plan consistency. Said initiation should be considered by the Planning Commission on the next available Planning Commission agenda.

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JEFF STONE, Supervisor Third District

**BACKGROUND:**

The Multiple Species Habitat Conservation Plan Area encompasses approximately 1.26 million acres (1,966 square miles); it includes all unincorporated Riverside County land west of the crest of the San Jacinto Mountains to the Orange County line, as well as the jurisdictional areas of the Cities of Temecula, Murrieta, Lake Elsinore, Canyon Lake, Norco, Corona, Riverside, Moreno Valley, Banning, Beaumont, Calimesa, Perris, Hemet, and San Jacinto. It provides a coordinated MSHCP Conservation Area and implementation program to preserve biological diversity and maintain the region's quality of life.

Since the adoption of the MSHCP in 2003 all cities are required to adopt a resolution which implements the MSHC. All cities utilized the model resolutions which exempted non-development applications such as a general plan amendment and zone change from the Habitat Evaluation and Acquisition Negotiation Process ("HANS"); requirement. They have allowed said applications to proceed with the postponement of HANS until such time as development is proposed in subsequent development applications. Unfortunately the county did not exempt these non-development applications from the HANS process and applicants must provide upfront the needed studies on the entire site being proposed for a general plan amendment. While the biological value is of utmost importance it is not compromised if the studies are delayed until development is proposed. In today's environment it adds a significant upfront cost that is not experienced if processing in the cities. It presents an unfair advantage for development in the unincorporated areas. At this time it is recommend that the county adopt the Resolution No. 2012-254 to exempt a general plan amendment , an amendment of any zoning ordinance and a lot line adjustment from MSHCP/HANS process so that as the county continues to build a business friendly posture it does not offer a more cumbersome and costly process than the participating cities.

Adoption of the proposed resolution will necessitate, per legal counsel, a general plan amendment because the County currently implements MSHCP through the General Plan. The MSHCP is incorporated by reference in the General Plan; therefore the General Plan has to be amended to ensure consistency with respect to plan implementation. It is recommended that the county initiate a general plan amendment by consensus of the Board of Supervisors to amend the general plan and allow the proposed resolution to go forward with an effective date that coincides with the effective date of the future GPA. Due to the specific requirements of Ordinance 348 for the processing general plan amendments, the Planning Director will present the recommendation for the GPIIP to the planning commission who will then forward their recommendation to the BOS.

2 RESOLUTION NO. 2012-254

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4 **A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF RIVERSIDE**  
5 **TO ESTABLISH ADDITIONAL GUIDANCE AND PROCEDURES FOR IMPLEMENTATION**  
6 **OF THE WESTERN RIVERSIDE COUNTY MULTIPLE SPECIES HABITAT CONSERVATION PLAN**

7 **THE BOARD OF SUPERVISORS OF THE COUNTY OF RIVERSIDE DOES HEREBY**  
8 **RESOLVE AS FOLLOWS:**

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10 A. WHEREAS, this Resolution shall be known as the “Western Riverside County Multiple Species  
11 Habitat Conservation Plan Implementation Policy”; and
- 12 B. WHEREAS, the Board of Supervisors (Board) finds that the ecosystems of western Riverside County  
13 and the vegetation communities and sensitive species they support are fragile, irreplaceable resources  
14 that are vital to the general welfare of all residents; and
- 15 C. WHEREAS, these vegetation communities and natural areas contain habitat value which contributes to  
16 the region’s environmental resources; and
- 17 D. WHEREAS, special protections for these vegetation communities and natural areas are essential to  
18 prevent future endangerment of the plant and animal species that are dependent upon them; and
- 19 E. WHEREAS, on June 17, 2003, the Board approved the Western Riverside County Multiple Species  
20 Habitat Conservation Plan (MSHCP) and executed its associated Implementing Agreement.  
21 Thereafter, relevant provisions of the MSHCP and policies concerning development project  
22 implementation and compliance with the MSHCP were incorporated into the County of Riverside  
23 General Plan. The purpose of this Resolution is to provide further guidance concerning the  
24 implementation of the requirements of the MSHCP; and
- 25 F. WHEREAS, adoption and implementation of this Resolution will enable the County to achieve the  
26 conservation goals set forth in the MSHCP and to preserve the ability of affected property owners to  
27 make reasonable use of their land consistent with the requirements of the National Environmental  
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1 Policy Act (NEPA), the California Environmental Quality Act (CEQA), the Federal Endangered  
2 Species Action (FESA), the California Endangered Species Act (CESA), the California Natural  
3 Community Conservation Planning Act (NCCP), and other applicable laws; and

4 G. WHEREAS, it is the intent of this Resolution to protect vegetation communities and natural areas  
5 within western Riverside County which support species covered under the MSHCP; to maintain a  
6 future of economic development within western Riverside County by providing a streamlined process  
7 from which development can proceed in an orderly process; and to protect the existing character of  
8 western Riverside County through the implementation of a system of reserves which will provide for  
9 permanent open space, community edges, and habitat conservation for species covered by the MSHCP.

10 **NOW, THEREFORE, BE IT RESOLVED, DETERMINED AND ORDERED** by the Board of  
11 Supervisors of the County of Riverside, in regular session assembled on December 18, 2012, at 9:00 am., in its  
12 meeting room located on the 1<sup>st</sup> Floor of the County Administrative Center, 4080 Lemon Street, Riverside,  
13 California that the following policy related to the MSHCP be implemented:  
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15 **SECTION I. APPLICATION OF REGULATIONS**

16 Except as provided in Section II., this Resolution shall apply to all land within the unincorporated area of  
17 western Riverside County shown on the MSHCP Plan map included in the MSHCP. Upon application to the  
18 County for a development project, an applicant shall be required to comply with the procedures set forth in this  
19 Resolution. Upon the County's initiation of a project that is subject to CEQA, the County shall be required to  
20 comply with the procedures set forth in this Resolution. No private project requiring a discretionary permit or  
21 approval and no County initiated public project shall be undertaken unless the project is consistent with the  
22 MSHCP and this Resolution.

23 **SECTION II. EXEMPTIONS**

24 This Resolution shall not apply to the following:

- 25 A. The adoption or amendment of the County's General Plan.  
26 B. The adoption or amendment of any zoning ordinance.  
27 C. The approval of a lot line adjustment.  
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1 D. Any project for which and to the extent that a vesting tentative map pursuant to the Subdivision Map  
2 Act, or a development agreement pursuant to Government Code sections 65864 et seq., approved or  
3 executed prior to the Board's approval of the MSHCP, confers vested rights under the County's  
4 ordinances or state law to proceed with the project notwithstanding the Board's approval of the  
5 MSHCP or adoption of this Resolution. Projects subject to this exemption must comply with all  
6 provisions of any applicable state and federal law.

7 E. Any project for which the Board determines that application of this Resolution would result in the  
8 property owner being deprived of all reasonable economic use of the property in violation of federal or  
9 state constitutional prohibitions against the taking of property without just compensation.

10 **SECTION III. PROCEDURES**

11 A. The County shall implement the requirements for private and public project contributions to the  
12 MSHCP Conservation Area as set forth in the MSHCP, by electing to comply with the following:

13 1. The County shall implement the Property Owner Initiated Habitat Evaluation and Acquisition  
14 Negotiation Process (HANS) for private development projects ; and

15 2. Prior to the County's initiation of a public project, the County shall determine whether all or a  
16 portion of the real property for the project is located within the boundaries of the Criteria Area. If  
17 the County determines that all or a portion of the real property for the project is located within the  
18 Criteria Area, then the County shall perform the following:

19 a. Determine the design criteria applicable to the project based on the particular USGS section,  
20 quadrant, and/or cell grouping in which the project property is located, as set forth in Section  
21 3.2 of the MSHCP; and

22 b. Impose as a mitigation measure such requirements as are necessary to ensure the project  
23 complies with and implements the design criteria applicable to the project.

24 B. The County shall implement the requirements for the Protection of Riparian/Riverine Areas and  
25 Vernal Pools set forth in Section 6.1.2 of the MSHCP in the following manner:  
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1. As part of the CEQA review for a project, the property owner shall comply, or the County shall comply if the project is County-initiated, with the surveying, mapping, and documentation procedures set forth in Section 6.1.2 of the MSHCP for Riparian/Riverine Areas and Vernal Pools on the project property; and
  2. Based on the documentation prepared for the project, the County shall impose a condition and/or a mitigation measure such requirements as are necessary to ensure the project complies with and implements the policies for the Protection of Riparian/Riverine Areas and Vernal Pools set forth in Section 6.1.2 of the MSHCP.
- C. The County shall implement the requirements for the Protection of Narrow Endemic Plant Species set forth in Section 6.1.3 of the MSHCP in the following manner:
1. As part of the CEQA review of the project, the property owner shall comply, or the County shall comply if the project is County-initiated, with the site-specific focused survey procedures set forth in Section 6.1.3 of the MSHCP; and
  2. Based on the site-specific focused surveys prepared for the project, the County shall impose a condition and/or mitigation measure such requirements as are necessary to ensure the project complies with and implements the policies for Narrow Endemic Plant Species policies set forth in Section 6.1.3 of the MSHCP.
- D. The County shall impose a condition and/or mitigation measure such requirements as are necessary to ensure the project complies with and implements the Urban/Wildlands Interface Guidelines set forth in Section 6.1.4 of the MSHCP.
- E. The County shall impose a condition and/or mitigation measure such requirements as are necessary to ensure surveys are prepared for the project as required by Section 6.3.2 of the MSHCP.
- F. Pursuant to Section III. of this Resolution and the MSHCP, the County shall transfer any property interest acquired or obtained in fee title or as a conservation easement to the Western Riverside County Regional Conservation Authority for management.

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## SECTION IV. DEFINITIONS

For purposes of this Resolution, the following terms shall have the meaning set forth herein:

- A. "Area Plan" means the sixteen areas designated for purposes of providing an organizational framework for the Criteria Area, and for purposes of developing specific design criteria that will be utilized in assembling land within the Criteria Area that will become part of the MSHCP Conservation Area.
- B. "Criteria Area" means the general area designated and denoted on the MSHCP Plan Map as the "Criteria Area", comprised of approximately 310,000 acres from which new habitat conservation within the MSHCP Conservation Area will be assembled.
- C. "MSHCP" means the Western Riverside County Multiple Species Habitat Conservation Plan.
- D. "MSHCP Plan Map" means the map of the area encompassed by the MSHCP.
- E. "Project" means any action or activity that is subject to the County's discretionary approval for the purpose of developing or improving real property, including, but not limited to, the following: the sale, purchase or lease of County-owned property; the approval of a tentative subdivision map; the issuance of a license, permit, certificate, variance, or other entitlement for the development or improvement of real property, including the clearing or grading of real property (except for weed or fire hazard abatement); and the construction or improvement of streets, water, sewer, or other public facilities or public works.

**BE IT FURTHER RESOLVED AND DETERMINED** that this Resolution shall not take effect until such time as the Board of Supervisors adopts an amendment to the County of Riverside General Plan revising certain language related to MSHCP implementation so that it is consistent with the exemptions provided in this Resolution and said amendment is in effect.