

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

324



**FROM:** Transportation and Land Management Agency

**SUBMITTAL DATE:**  
June 22, 2011

**SUBJECT:** Amendment to Ordinance No. 875 - CVMSHCP Mitigation Fee

**RECOMMENDED MOTION:** That the Board of Supervisors:

1. Adopt the findings of the Nexus Study dated May 2011 for the Local Development Mitigation Fee; and
2. Introduce Ordinance No. 875.1 and adopt said Ordinance on successive weeks.

**BACKGROUND:** The Coachella Valley Conservation Commission (CVCC) has prepared a new Nexus Study dated May 2011 to analyze the current overall financing of the Coachella Valley Multiple Species Habitat Conservation Plan (CVMSHCP). CVCC staff worked with the nexus consultant, Wildan Financial Services, to develop funding scenarios that would address the numerous changes in potential revenue for the CVMSHCP since the 2007 Nexus Study, without

*George A. Johnson*  
George A. Johnson  
Director, Transportation and Land Management Agency

FORM APPROVED COUNTY COUNSEL  
BY: *Karin L. Watts-Bazan*  
DATE: 5/23/11  
Departmental Concurrence

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

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

APPROVE

BY: *Tina Grande*  
Tina Grande

**County Executive Office Signature**

**MINUTES OF THE BOARD OF SUPERVISORS**

On motion of Supervisor Ashley, seconded by Supervisor Stone and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended, and the above ordinance is approved as introduced with waiver of reading.

Ayes: Buster, Tavaglione, Stone, Benoit and Ashley  
Nays: None  
Absent: None  
Date: July 12, 2011  
xc: TLMA, COB

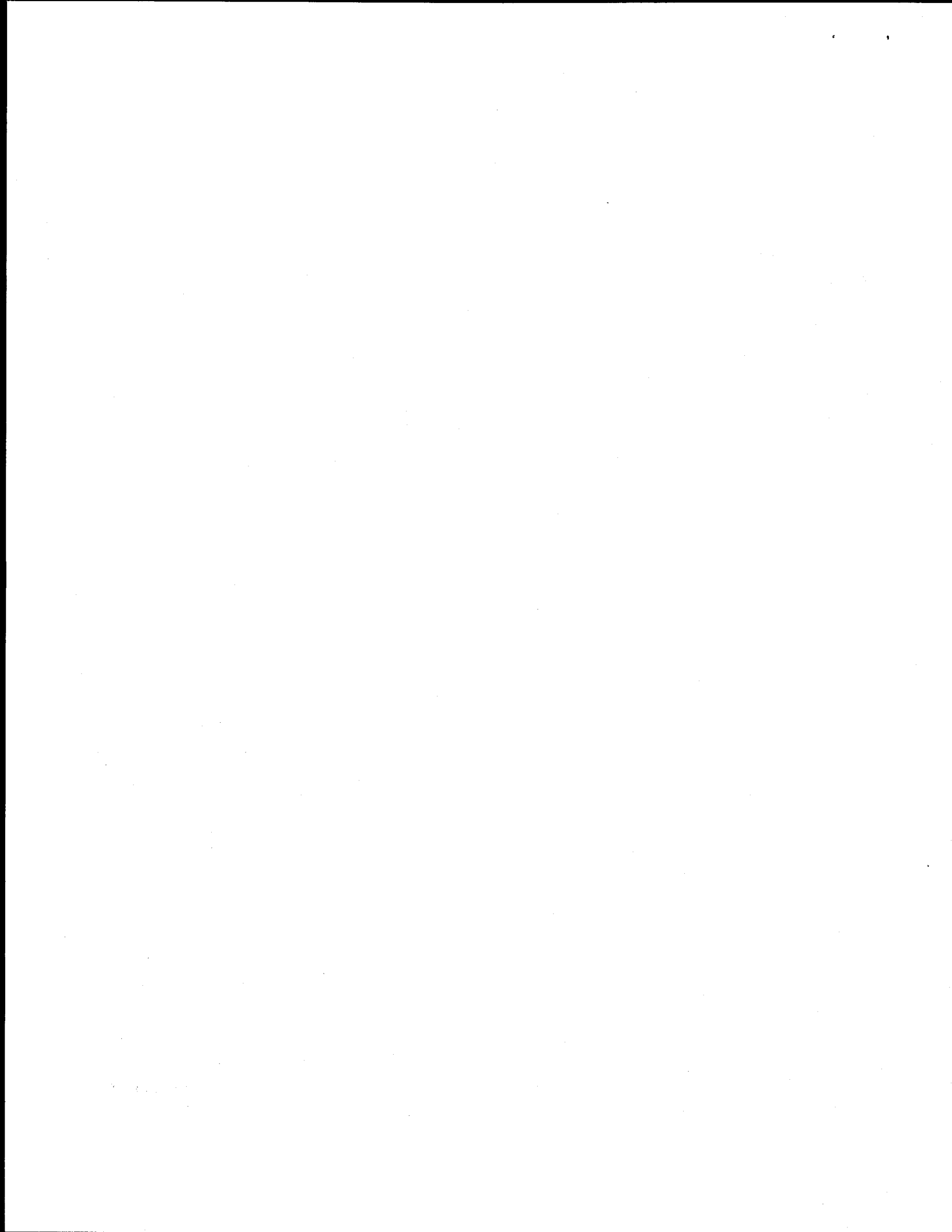
Kecia Harper-Ihem  
Clerk of the Board  
By: *Kecia Harper-Ihem*  
Deputy

Prev. Agn. Ref. 6/28/11, 3.7

District: 4,5

Agenda Number:

**3.40**



raising the current mitigation fee. Additionally, a market study was prepared by Mike Scarcella, Capital Realty Analysts. The market study explored the CVCC practice of purchasing the most biologically sensitive land with the greatest development potential, the possibility of revising the acquisition period from 30 years to 45 years and the CVCC practice on future land acquisition.

The Nexus Study provides the technical documentation required to update the mitigation fee pursuant to the requirements of the Mitigation Fee Act set forth in the Government Code. This analysis recognizes the following changes in key program assumptions:

1. An increase in the acquisition period from 30 to 45 years.
2. Land acquisition for Reserve System that occurred since late 2006 has reduced the amount of acreage CVCC must acquire in future years.
3. Land price estimates have been adjusted to reflect the CVCC's recent experience and priority locations in the short run, and updated market study values in the long run.
4. Estimates of annual land development have been revised downward to reflect actual, recent development patterns in the Coachella Valley and the constraints of the current economic climate.
5. Eagle Mountain Landfill is no longer considered a source of revenue.

The 2011 Nexus Study supports lowering the commercial/industrial fee from \$5730 to \$5600 per disturbed acre. It also allow for the residential per unit fee to be adjusted as shown in the table below.

	Current based on 2007 Nexus Study	Proposed based on 2011 Nexus Study
<u>Residential:</u>		
0-8 units/acre, per unit	\$1,284	\$1,254
8.1 – 14 units/acre, per unit	\$533	\$521
14+ units/acre, per unit	\$235	\$230

Additionally, the proposed amendment revises Ordinance No. 875 as follows:

1. Allows fees collected to be used for management and monitoring in addition to the acquisition of property for conservation pursuant to the requirements of the CVMSHCP.
2. Includes a new exhibit identifying the CVMSHCP boundary as the fee area boundary.
3. Changes the guest dwelling exemption to a guest quarter exemption consistent with the current requirements of Ordinance No. 348.
4. Incorporates certain revisions to the fee credit provisions requested by the CVCC.
5. Corrects minor typographical errors.



1    ORDINANCE NO. 875.1

2

3                        AN ORDINANCE OF THE COUNTY OF RIVERSIDE AMENDING ORDINANCE NO. 875

4    ESTABLISHING A LOCAL DEVELOPMENT MITIGATION FEE FOR FUNDING

5    THE PRESERVATION OF NATURAL ECOSYSTEMS IN ACCORDANCE WITH THE

6    COACHELLA VALLEY MULTIPLE SPECIES HABITAT CONSERVATION PLAN

7

8                        The Board of Supervisors of the County of Riverside ordains as follows:

9                        Section 1.        Subsection A. of Section 2. of Ordinance No. 875 is amended to read as

10 follows:

11                                 “A.    In order to implement the goals and objectives of the

12 Coachella Valley Multiple Species Habitat Conservation Plan/Natural Community

13 Conservation Plan (“MSHCP”) and to mitigate the impacts caused by new development in

14 the unincorporated area of Riverside County, lands supporting species covered by the

15 MSHCP must be acquired, monitored and managed in order to achieve habitat

16 conservation in perpetuity.”

17                        Section 2.        Subsection B. of Section 2. of Ordinance No. 875 is amended to read as

18 follows:

19                                 “B.    The Local Development Mitigation Fee is necessary in order

20 to supplement the financing of the acquisition of lands supporting species covered by the

21 MSHCP and related public services as well as to pay for new development’s fair share of

22 the cost of acquisition and perpetual conservation.”

23                        Section 3.        Subsection D. of Section 2. of Ordinance No. 875 is amended to read as

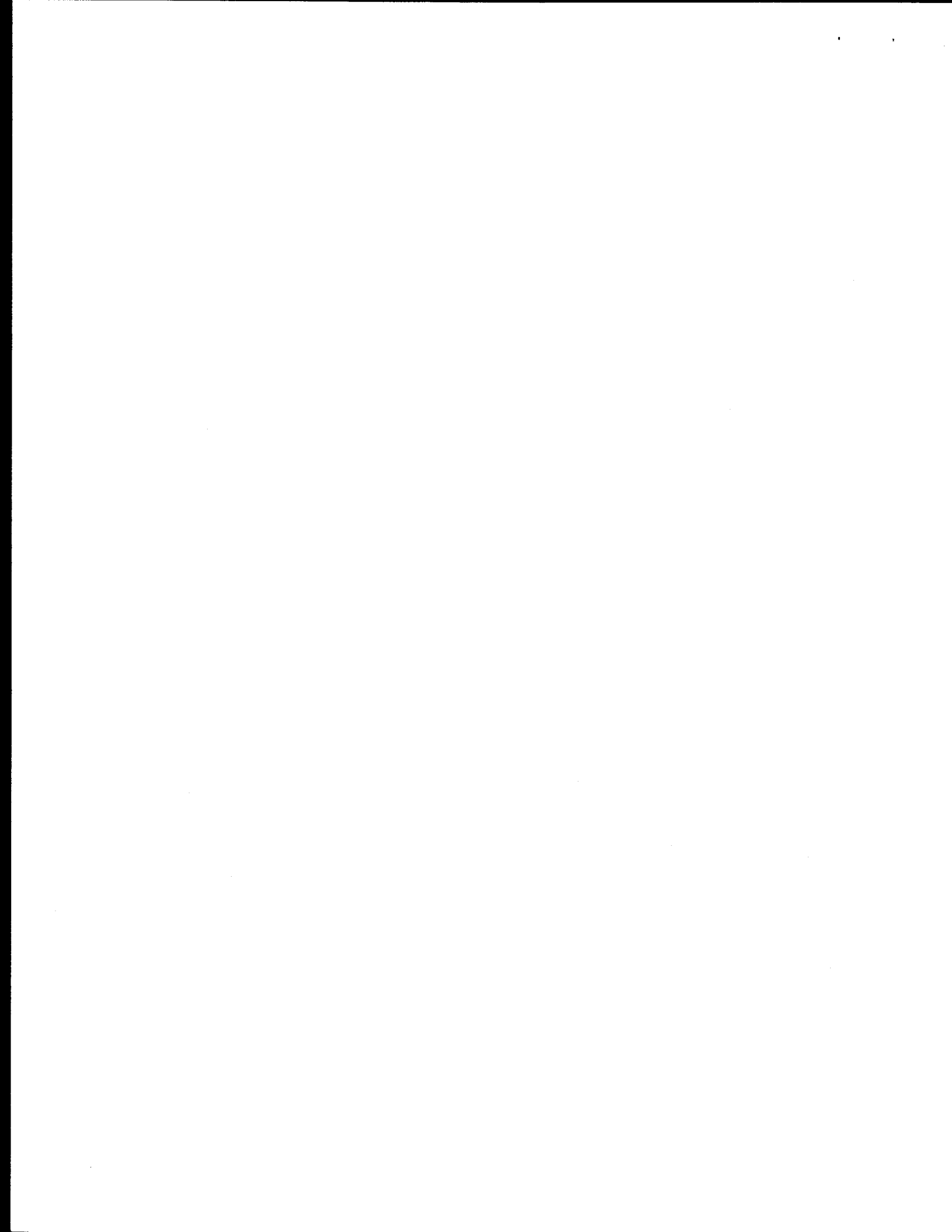
24 follows:

25                                 “D.    The Fee does not reflect the entire cost of the lands which

26 need to be acquired and perpetually conserved in order to implement the MSHCP and

27 mitigate the impacts caused by new development. Additional revenues will be required

28 from other sources. The County finds that the benefit to each development project is



1 greater than the amount of the Fee to be paid by that project.”

2 Section 4. Subsection H. of Section 2. of Ordinance No. 875 is amended to read as  
3 follows:

4 “H. The facts and evidence provided to and considered by the  
5 Board of Supervisors establish that there is a reasonable relationship between the need for  
6 acquiring and conserving in perpetuity the natural ecosystems and covered species  
7 identified in the MSHCP, and the impacts to such natural ecosystems and species created  
8 by the types of development on which the Fee will be imposed; and that there is a  
9 reasonable relationship between the Fee’s use and the types of development for which the  
10 Fee is charged. This reasonable relationship is described in more detail in the MSHCP and  
11 Mitigation Fee Nexus Report.”

12 Section 5. Subsection I. of Section 2. of Ordinance No. 875 is amended to read as  
13 follows:

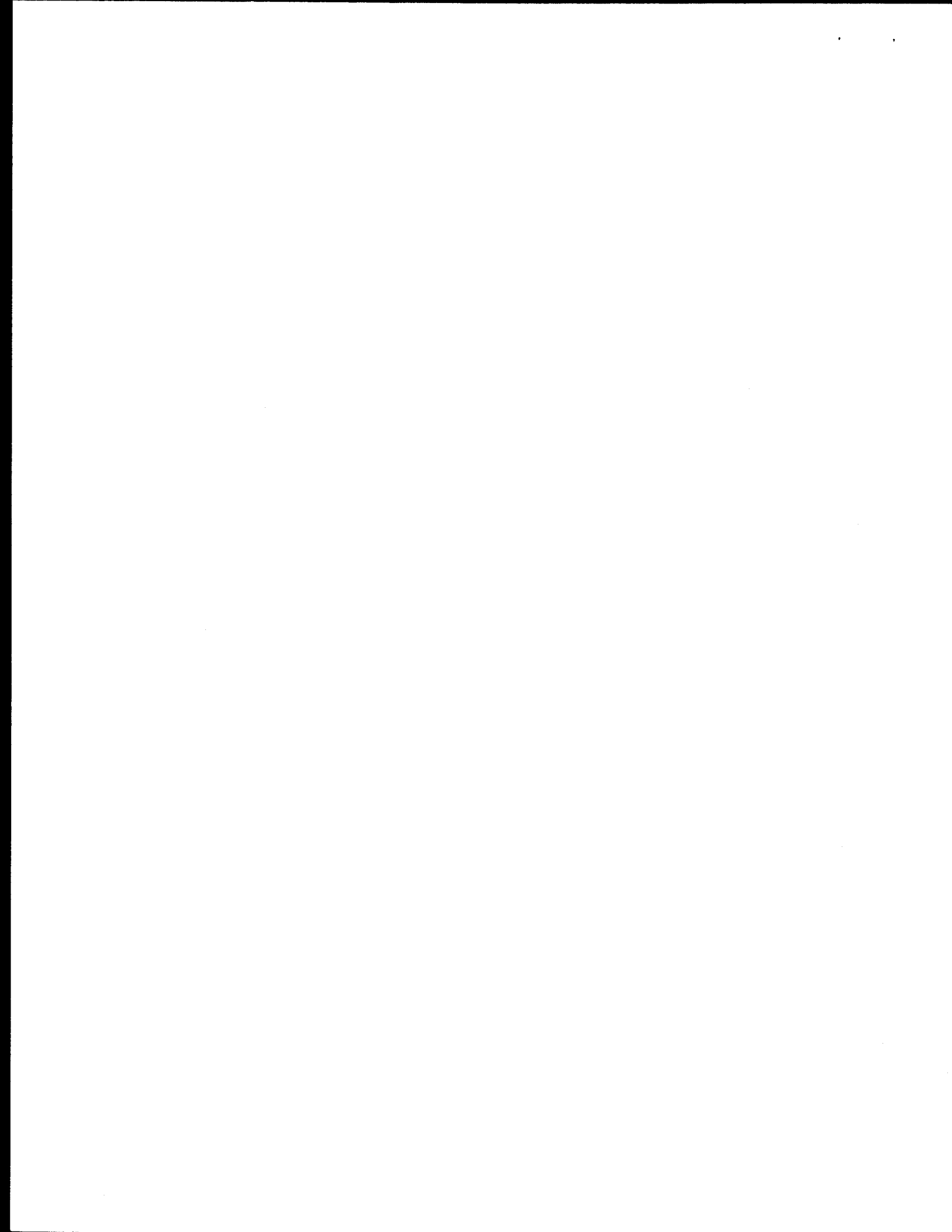
14 “I. The Fees collected pursuant to this Ordinance are reasonable  
15 and will not exceed the estimated total cost of the acquisition and perpetual conservation of  
16 the lands necessary to protect natural ecosystems and covered species set forth in the  
17 MSHCP. Conservation of the land shall require monitoring and management beyond the  
18 life of the MSHCP permit.”

19 Section 6. Subsection J. of Section 2. of Ordinance No. 875 is amended to read as  
20 follows:

21 “J. The Fees shall be used to finance the acquisition and  
22 perpetual conservation of lands and certain improvements necessary to implement the  
23 goals and objectives of the MSHCP.”

24 Section 7. The definition of “Coachella Valley Conservation Commission” set forth in  
25 Section 4. of Ordinance No. 875 is amended to read as follows:

26 “ ‘Coachella Valley Conservation Commission’ or ‘Commission’ means the  
27 governing body established pursuant to the MSHCP that is delegated the authority to  
28 oversee and implement the provisions of the MSHCP.”





1            Section 8.     Section 4 of Ordinance No. 875 is amended to add the definition of  
2 Conservation after the definition of Coachella Valley Conservation Commission to read as follows:

3            “ ‘Conservation’ means all the actions necessary for the permanent  
4 protection of species, natural communities and habitat land as required of the Commission  
5 under the MSHCP including land acquisition, land management, biological monitoring,  
6 law enforcement and administration.”

7            Section 9.     The definition of “Revenue” or “Revenues” set forth in Section 4. of  
8 Ordinance No. 875 is amended to read as follows:

9            “ ‘Revenue’ or ‘Revenues’ means any funds received by the County  
10 pursuant to the provisions of this Ordinance for the purpose of defraying all or a portion of  
11 the cost of acquiring and perpetually conserving vegetation communities and natural areas  
12 within the County and the region which are known to support threatened, endangered or  
13 key sensitive populations of plant and wildlife species.”

14           Section 10.   Section 5. of Ordinance No. 875 is amended to read as follows:

15           “Section 5.   LOCAL DEVELOPMENT MITIGATION FEE.

16           A.     To assist in providing revenue to acquire and conserve in  
17 perpetuity lands necessary to implement the MSHCP, the Fee shall be paid for each  
18 residential unit, Development Project or portion thereof to be constructed within the  
19 County. Five categories of the Fee are defined and include: residential units, density less  
20 than 8.0 dwelling units per acre; residential units, density between 8.1 and 14.0 dwelling  
21 units per acre; residential units, density greater than 14.1 dwelling units per acre;  
22 commercial acreage; and industrial acreage. Because there can be mixed traditional  
23 commercial, industrial and residential uses within the same project, for Fee assessment  
24 purposes only, the Fee which is applicable to commercial or industrial Development  
25 Projects shall be applied to the whole Project based upon the existing underlying zoning  
26 classification of the property at the time of issuance of a building permit. The following  
27 Fee shall be paid for each Development Project to be constructed within the boundaries of  
28 the Coachella Valley Multiple Species Habitat Conservation Plan/Natural Community



1 Conservation Plan fee area. The fees are calculated using an Equivalent Benefit Unit  
2 methodology:

3 1. Residential, density less than 8.0 dwelling units per  
4 acre - \$1,254.00 per dwelling unit.

5 2. Residential, density between 8.1 and 14.0 dwelling  
6 units per acre – \$521.00 per dwelling unit.

7 3. Residential, density greater than 14.1 dwelling units  
8 per acre – \$230.00 per dwelling unit.

9 4. Commercial - \$5,600.00 per acre.

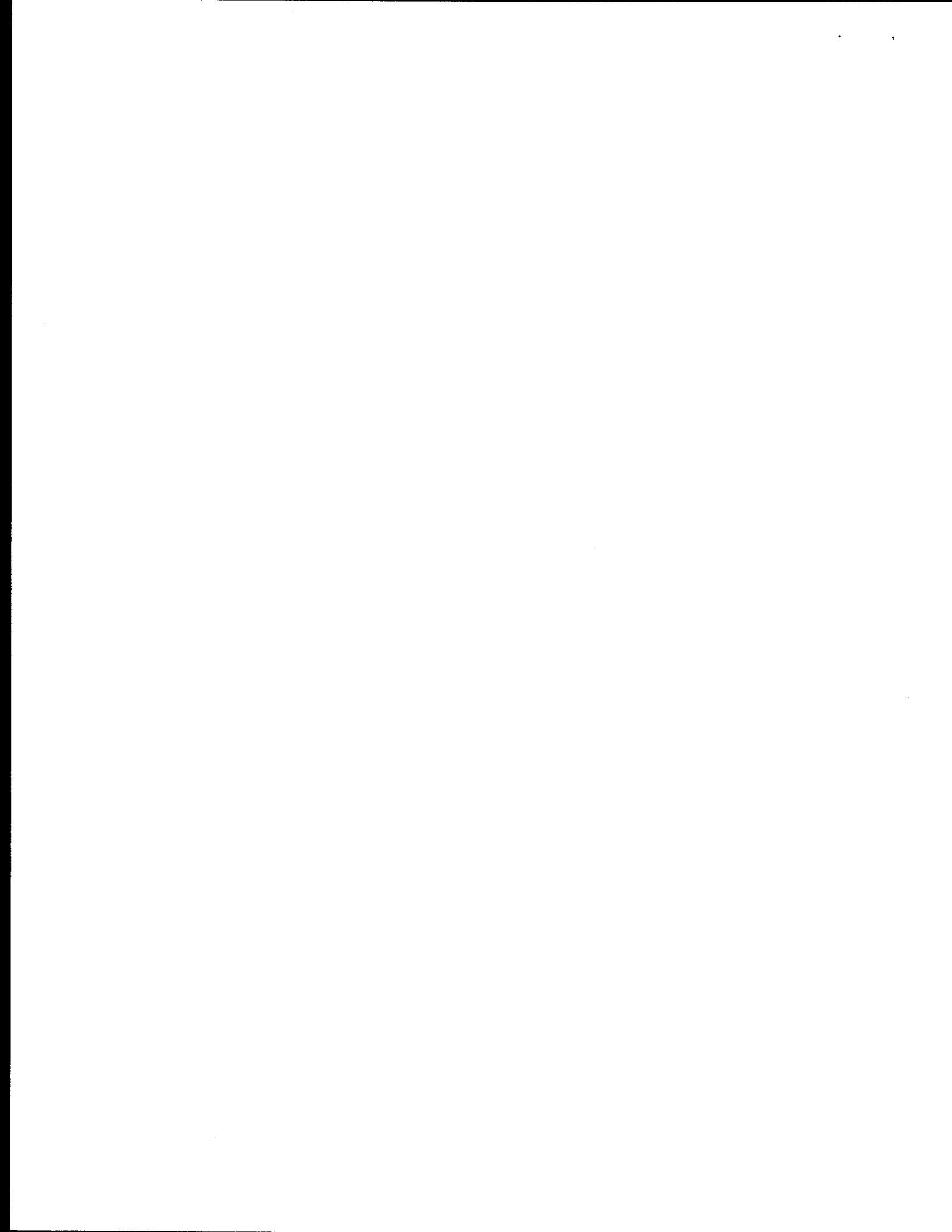
10 5. Industrial - \$5,600.00 per acre.

11 B. The amount of the Local Development Mitigation Fee for a  
12 commercial or industrial Development Project required to be paid shall be based on the  
13 acreage to be developed and shall be calculated on the basis of Project Area, in accordance  
14 with the following:

15 1. The Project Area shall be determined by County staff  
16 based on the subdivision map, plot plan, and other information submitted to or required by  
17 the County.

18 2. If the difference between the net acreage, as exhibited  
19 on the plot plan, and the Project Area is less than one-quarter acre, the Fee shall be paid on  
20 the full gross acreage.

21 3. An applicant may elect, at his or her own expense, to  
22 have a Project Area dimensioned, calculated, and certified by a registered civil engineer or  
23 licensed land surveyor. The engineer or land surveyor shall prepare a wet-stamped letter  
24 of certification of the Project Area dimensions and a plot plan exhibit thereto that clearly  
25 delineates the Project Area. Upon receipt of the letter of certification and plot plan exhibit,  
26 the County shall review submitted documents. If the Project Area dimensions, the letter of  
27 certificate, and the plot plan are acceptable to the County, the County shall calculate the  
28 Local Development Mitigation Fee required to be paid based on the certified Project Area.



1 If the Project Area dimensions, the letter of certification, and the plot plan are not  
2 acceptable to the County, the applicant shall perform such actions as directed by the  
3 County in order to resolve any deficiencies perceived by the County.

4 4. Where construction or other improvements on Project  
5 Area are prohibited due to legal restrictions on the Project Area, such as Federal  
6 Emergency Management Agency designated floodways or areas legally required to remain  
7 in their natural state, that portion of the Project Area so restricted shall be excluded for the  
8 purpose of calculating the Local Development Mitigation Fee.”

9 Section 11. Section 6. of Ordinance No. 875 is amended to read as follows:

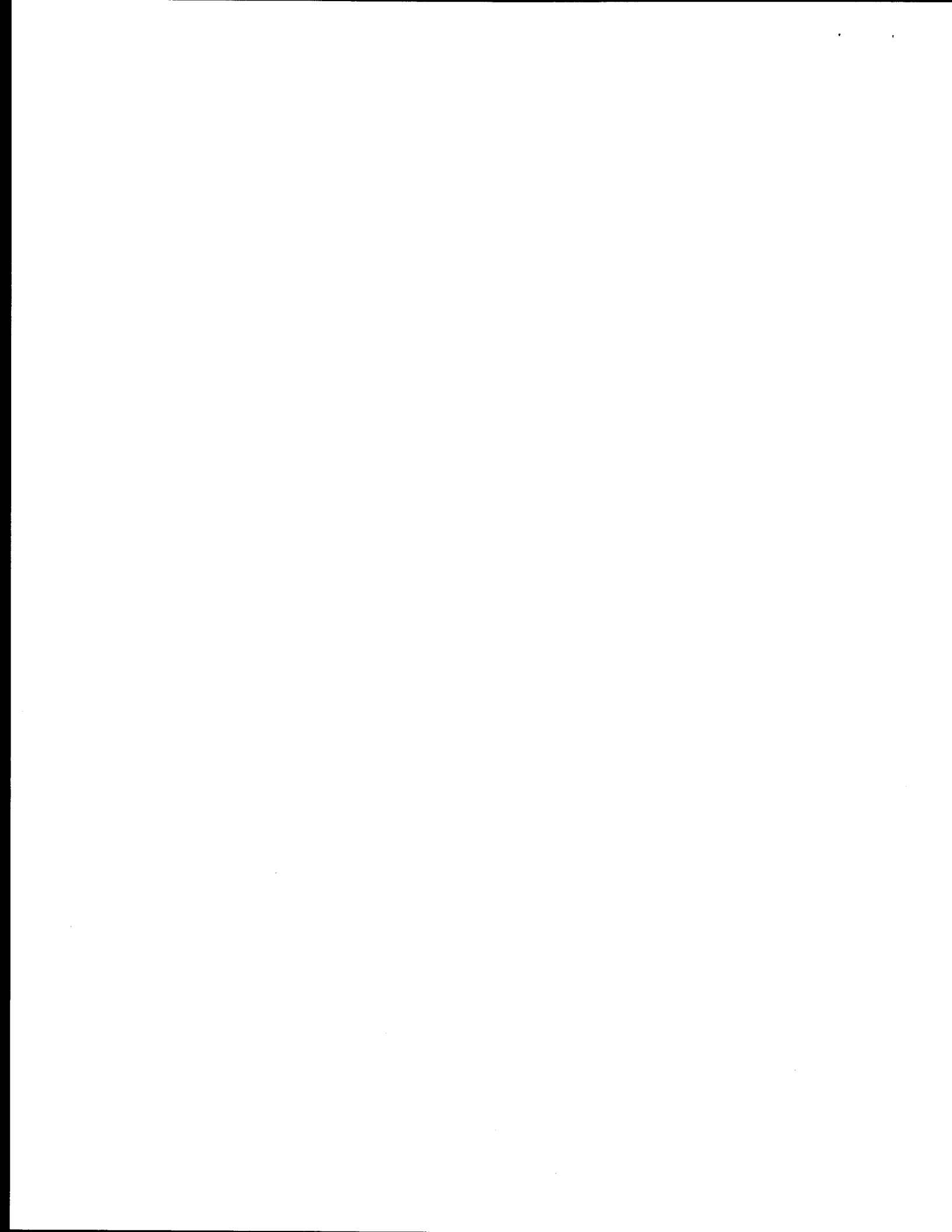
10 “Section 6. COACHELLA VALLEY MULTIPLE SPECIES HABITAT  
11 CONSERVATION PLAN/NATURAL COMMUNITY CONSERVATION PLAN FEE  
12 AREA BOUNDARY. The boundary of the Coachella Valley Multiple Species Habitat  
13 Conservation Plan/Natural Community Conservation Plan fee area is the same as the  
14 MSHCP boundary set forth in the MSHCP and in Exhibit A which is attached hereto and  
15 incorporated herein by this reference.”

16 Section 12. Section 7. of Ordinance No. 875 is amended to read as follows:

17 “Section 7. IMPOSITION OF THE LOCAL DEVELOPMENT  
18 MITIGATION FEE. No building permit shall be issued for any Development Project  
19 except upon the condition that the Local Development Mitigation Fee applicable to such  
20 Development Project has been paid in accordance with the provisions of this Ordinance.”

21 Section 13. Subsection B. of Section 8 of Ordinance No. 875 is amended to read as  
22 follows:

23 “B. The Local Development Mitigation Fee shall be assessed one  
24 time per lot or parcel, except in cases of changes in land use. The Fee required to be paid  
25 when there is a change in land use shall be reduced by the amount of any previously paid  
26 Fee for that property. No refunds shall be provided for changes in land use to a lower Fee  
27 category. It shall be the responsibility of the applicant to provide documentation of any  
28 previously paid Fee.”



1            Section 14.    Subsection H. of Section 8 of Ordinance No. 875 is amended to read as  
2 follows:

3                            “H.    For Development Projects which the County does not require  
4 a final inspection or issuance of a certificate of occupancy, the Fee shall be paid prior to  
5 any use or occupancy.”

6            Section 15.    Subsection J. of Section 8 of Ordinance No. 875 is amended to read as  
7 follows:

8                            “J.    The Local Development Mitigation Fee for wind turbines  
9 and other structures and disturbances related to the location or siting of wind turbines shall  
10 be calculated solely upon the net permanent above ground disturbance area. Said Fee shall  
11 not in this instance be calculated based upon the size of the parcel of land containing the  
12 wind turbine, other related structures or disturbances.”

13           Section 16.    Subsection A. of Section 10. of Ordinance No. 875 is amended to read as  
14 follows:

15                            “A.    All Fees paid pursuant to this Ordinance shall be deposited,  
16 accounted for, and expended in accordance with Section 66006 of the Government Code  
17 and all other applicable provisions of law.”

18           Section 17.    Subsection B. of Section 10. of Ordinance No. 875 is amended to read as  
19 follows:

20                            “B.    Subject to the provisions of this section, all Fees collected  
21 pursuant to this Ordinance shall be remitted monthly to the Coachella Valley Conservation  
22 Commission and will be expended solely for the purpose of conservation of the vegetation  
23 communities and natural areas within the County and the region which support species  
24 covered in the MSHCP in accordance with the provisions of the MSHCP.”

25           Section 18.    Section 11. of Ordinance No. 875 is amended to read as follows:

26                            “Section 11.    AUTOMATIC ANNUAL FEE ADJUSTMENT. The Fee  
27 established by this Ordinance shall be revised annually by means of an automatic  
28 adjustment at the beginning of each fiscal year based on the average percentage change





1 over the previous calendar year set forth in the Consumer Price Index for "All Urban  
2 Consumers" in the Los Angeles-Anaheim-Riverside Area, measured as of the month of  
3 December in the calendar year which ends in the previous fiscal year. The first Fee  
4 adjustment shall not be made prior to a minimum of ten (10) months subsequent to the  
5 effective date of this Ordinance. The Fee, as revised annually, shall be compiled by the  
6 Coachella Valley Conservation Commission and shall be included in an annual report to  
7 the Board of Supervisors pertaining to the accounting for the MSHCP Fee as required by  
8 Government Code section 66006."

9 Section 19. Subsection G. of Section 12. of Ordinance No. 875 is amended to read as  
10 follows:

11 "G. Guest Quarters as defined in Section 21.35a of Ordinance  
12 No. 348."

13 Section 20. Section 13. of Ordinance No. 875 is amended to read as follows:

14 "Section 13. FEE CREDITS. The County may grant to owners or  
15 developers of real property, a Credit against the Fee that would otherwise be charged  
16 pursuant to this Ordinance, for the dedication of land determined to be necessary for  
17 inclusion in the MSHCP Conservation Area, provided, however, that no Credit shall be  
18 given unless 1. the dedication is secured by a conservation easement acceptable to a  
19 grantee legally authorized to accept and hold such easements pursuant to Civil Code  
20 section 815.3 or pursuant to another legal instrument that ensures the area will be  
21 conserved in perpetuity; 2. the land to be dedicated is appropriate for conservation and  
22 dedication thereof is consistent with and furthers the goals of the MSHCP; and 3. the  
23 dedication and Credit complies with all procedures and policies of the Coachella Valley  
24 Conservation Commission. The amount of the Credit granted shall be determined by an  
25 estimate of the fair market value of the land dedicated. Any Credit granted by the County  
26 shall be given in stated dollar amounts only. An applicant for a proposed Development  
27 Project may apply for Credit to reduce the amount of the Fee required to be paid prior to  
28 approval of the Development Project. Any Credit granted and the amount of the Fee to be



1 paid shall be included as a condition of approval for the Development Project. However, if  
2 an applicant has already received approval from the County and has not previously applied  
3 for a Credit to reduce the amount of the Fee required to be paid, an applicant may apply for  
4 such Credit at any time prior to issuance of a grading permit for the Development Project.  
5 Any Credit granted and the amount of the Fee required to be paid shall be included as a  
6 condition of approval on the grading permit issued for the Development Project.”

7 Section 21. This ordinance shall take effect on September 1, 2011.

8 BOARD OF SUPERVISORS OF THE COUNTY  
9 OF RIVERSIDE, STATE OF CALIFORNIA

10 By: \_\_\_\_\_  
11 Chairman

12 ATTEST:

13 CLERK OF THE BOARD:

14 By: \_\_\_\_\_  
15 Deputy

16  
17  
18 (SEAL)  
19  
20  
21

22 APPROVED AS TO FORM:

23 June 22, 2011

24 By: Karin Watts Bazan  
25 KARIN WATTS-BAZAN  
26 Principal Deputy County Counsel

27 KWB:ay  
06/22/11

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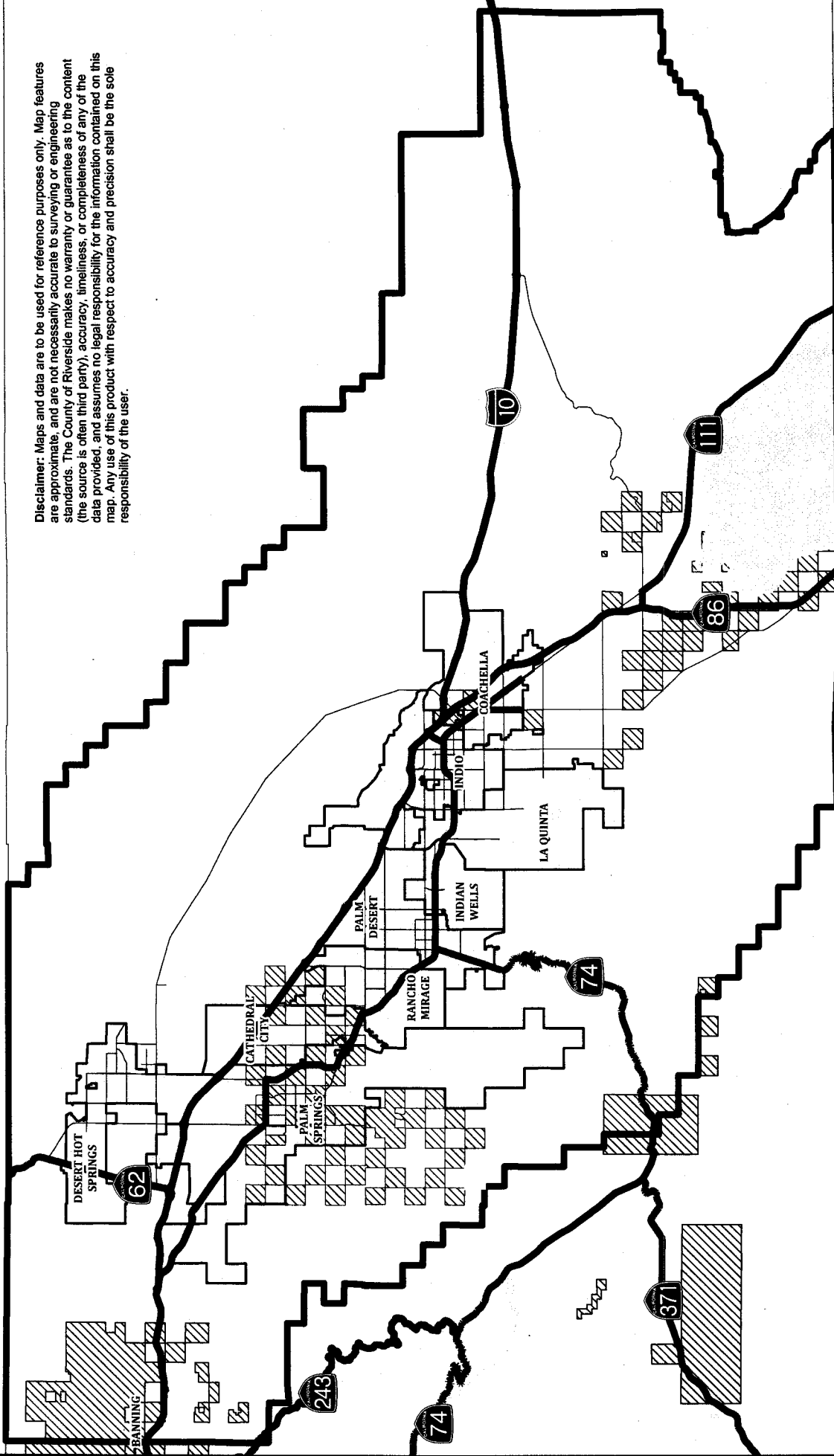






# Coachella Valley Multiple Species Habitat Conservation Plan (CVMSHCP) Area

SAN BERNARDINO COUNTY

## Exhibit A

Disclaimer: Maps and data are to be used for reference purposes only. Map features are approximate, and are not necessarily accurate to surveying or engineering standards. The County of Riverside makes no warranty or guarantee as to the content (the source is often third party), accuracy, timeliness, or completeness of any of the data provided, and assumes no legal responsibility for the information contained on this map. Any use of this product with respect to accuracy and precision shall be the sole responsibility of the user.



 CVMSHCP Boundary  
 City Boundaries  
 Indian Reservation (Not a Part)  
 Major Roads

SAN DIEGO COUNTY

IMPERIAL COUNTY



July 12 2011

11/11/11