

*Regional Conservation Authority*

**RECOMMENDATION REGARDING TEMPLATE CRITERIA  
REFINEMENT POLICY FOR PERMITTEES**

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**Staff Contact:**

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**Background:**

Under Section 6.5 of the MSHCP, the RCA and permittees are authorized to undertake a refinement of cell criteria, when such a refinement is necessary to facilitate Reserve Assembly. On July 24, 2006, the Board adopted a policy governing how the RCA undertakes a criteria refinement and the role of the RCA Board in the process.

The proposed policy before the Board today would delineate and, we believe clarify, the responsibilities of the County and cities in processing criteria refinements. The text is similar to the RCA policy but focuses on the permittee role. It takes the form of a template that can be adopted verbatim, or with some modification, by the permittees.

In general, the template outlines the following with respect to the permittee's responsibilities:

- When a permittee elects to undertake a criteria refinement associated with a specific project, then a "Habitat Evaluation and Acquisition Negotiation Strategy" (HANS) or equivalent process must be completed, prior to initiating the process.
- The permittee would document the need for the criteria refinement and provide that documentation to the RCA.
- The permittee can prepare a draft biological assessment and equivalency analysis to submit to the RCA.

The template also includes language from the RCA policy to insure there is a complete picture of the process.

**RECOMMENDATION:**

That the Executive Committee:

- 1) Recommend that the RCA Board of Directors endorse the attached template criteria refinement policy language, and request that the County and cities adopt the policy (the template will be included in the RCA Implementation Manual); and
- 2) Authorize staff to agendize this matter for the April 2, 2007 meeting of the RCA Board of Directors.

**TEMPLATE POLICY  
REGARDING CRITERIA REFINEMENTS INITIATED BY PERMITTEES**

Section 1.01 Pursuant to Section 6.5 of the Plan, the *City/County* is authorized to propose a refinement of the Cell criteria, when such a refinement is necessary to facilitate Reserve Assembly. This policy is intended to clarify the Criteria Refinement Process contained in Section 6.5 and outline the *City's/County's* responsibilities.

Section 1.02 The *City/County* may process a Criteria Refinement directly or request that the RCA undertake the process on its behalf.

**THE FOLLOWING IS INCLUDED IN THE EVENT THAT THE PERMITTEE WISHES TO PASS ON THE COSTS OF THE REFINEMENT TO A PROJECT PROPONENT.**

Section 1.03 A request for the RCA to undertake a criteria refinement must be approved by the RCA Board.

- (a) When the RCA agrees to carry out a criteria refinement on behalf of the *City/County*, the cost shall be borne by the *City/County*, unless the RCA Board makes one of the following findings:
  - (i) The criteria refinement proposes replacement conservation land outside the jurisdiction of the sponsoring Permittee.
  - (ii) The Criteria Refinement will likely result in significant long-term reduction in land acquisition costs.

Section 1.04 If the *City/County* elects to undertake a criteria refinement to address reserve assembly issues associated with a specific project, then a "Habitat Evaluation and Acquisition Negotiation Strategy" (HANS) or equivalent process will be completed, prior to initiating the refinement.

Section 1.05 The *City/County* will document the need for the refinement and provide that documentation to the RCA (the documentation may be incorporated into the written results of the HANS or equivalent).

Section 1.06 The *City/County* may/will prepare a draft biological assessment and equivalency analysis to submit to the RCA.

Section 1.07 The term "affected party" referenced in Section 6.5 of the Plan means the *City/County*, other affected Permittee(s), the Wildlife Agencies, property owners that own property in the cells where the Criteria are proposed for change, and any person or organization that has requested a copy of the report.

THE FOLLOWING TEXT OUTLINES THE RCA'S OBLIGATIONS, BUT MAY BE INCLUDED IN THE PERMITTEE'S POLICY TO PROVIDE A COMPLETE REPRESENTATION OF THE PROCESS.

Section 1.08 The following procedures will apply to criteria refinements:

- (a) Using the materials submitted by the *City/County*, the RCA will prepare a biological evaluation and equivalency analysis that examines the quality of the habitat on the site in question and the quality of the habitat on the replacement land.
- (b) The RCA shall prepare, and distribute a draft report of habitat equivalency and its initial findings, to the *City/County*, other affected Permittee(s), the Wildlife Agencies, property owners directly affected by the Criteria Refinement and any person or organization that has requested a copy of the report.
- (c) The RCA will provide the parties set forth above 60 calendar days to review the draft report. However, the 60-day review period may be waived if the *City/County*, the RCA, affected Permittees, Wildlife Agencies and affected property owners are in agreement regarding the Criteria Refinement.
- (d) Within 30 calendar days of the close of the 60-day review period or waiver thereof, the RCA shall hold a meeting with the *City/County*, any affected Permittee(s) and the Wildlife Agencies to discuss the report, consider conservation alternatives, and attempt to resolve any outstanding issues.
- (e) The RCA Board shall conduct a public hearing on the proposed Criteria Refinement within 30 calendar days of the meeting referenced above. The *City/County*, the Wildlife Agencies, affected Permittees, any property owners directly affected by the proposed Criteria Refinement, and any person or organization that has requested notice shall be notified in writing of the date, time and place of the hearing.
- (f) The final determination of the RCA Board expressed in Section 6.5 is not an approval or denial of the Criteria Refinement, but an acceptance or rejection of the following findings:
  - i) The criteria refinement report adequately and objectively addresses the biological issues associated with the refinement.
  - ii) The equivalency analysis adequately and objectively evaluates prospective replacement conservation land.
  - iii) The report is prepared in conformance with the Plan.
  - iv) The modifications to the criteria do not rise to the level of an amendment to the Plan and do not reduce the Criteria Area.

- v) The prospective replacement conservation land is biologically equivalent or superior to the land being removed from conservation.
  - vi) The Criteria Refinement results in equivalent or greater conservation value and acreage within the Conservation Area.
  - vii) The replacement land has been secured for permanent conservation by an option agreement, escrow instructions, fee title, conservation easement or similar documents; and the Wildlife Agencies have concurred with the refinement, if the replacement land is outside the Criteria Area.
- (g) The RCA Board action shall be reported in writing to the *City/County*.