

Regional Conservation Authority

ISSUES ASSOCIATED WITH RCA / RCHCA MERGER

Staff Contact:

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Background:

At the December 2007 meeting, the RCA Board directed Staff and Counsel to outline some of the issues associated with merging the RCA and RCHCA. This report is preliminary in nature and provides a general overview of the questions that need to be answered from RCA's perspective prior to the initiation of any merger process. RCA Staff and Counsel believe it would be appropriate to defer interpretation of the SKR Plan and its requirements for a merger to RCHCA Staff and Counsel. The RCHCA Board, to our knowledge, has not formally considered the matter. That being said, we offer the following for your consideration.

WHAT THE MSHCP PLAN SAYS REGARDING THE RCHCA MERGER

The Western Riverside County MSHCP does contemplate the eventual merger of the RCHCA and the RCA. Until that occurs, however, the respective Plans are intended to be implemented separately, but coordinated through an agreement between the two authorities and the U.S. Fish and Wildlife Service and the California Department of Fish and Game ("Wildlife Agencies"). Although RCA and RCHCA staff do communicate on a regular basis, that agreement has not been developed, primarily because the RCA has been focusing on reserve assembly. As you know, this year we established a separate land management division; however, the majority of our limited management funds are dedicated to patrolling for trespassers, removing trash, and repairs.

Section 6.6.2(C) of the MSHCP provides that the RCA, when appropriate, will assume the duties and responsibilities of the RCHCA in accordance with the SKR Plan and the MSHCP Implementing Agreement. The MSHCP Implementing Agreement (Section 16.2 at p. 57) sets forth the following:

"Upon expiration of its initial 30-year term or termination, the RCA shall process an amendment to the MSHCP to allow coverage for SKR throughout the Plan Area. Alternatively, at any time prior to the expiration of the SKR HCP, the Permittees may elect to have the MSHCP assume all or a portion of the requirements set forth in the SKR HCP. In that event, the SKR HCP shall be amended pursuant to the Amendment

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Process set forth in Section 5 of the SKR HCP and the RCA shall process an amendment to the MSHCP.”

So, in addition to the timing, management and monitoring issues, there are two significant procedural considerations to address:

- Does the SKR Plan need to undergo a major or minor amendment for a merger?
- Does the MSHCP need to undergo a major or minor amendment for a merger?

The Plans do not precisely specify what type of amendment is required for a merger. A major amendment under both HCPs would require environmental compliance pursuant to CEQA and NEPA. In addition, a major amendment would require an amendment of both federal and state incidental take permits.

WILDLIFE AGENCIES

The RCA and RCHCA would need to consult with the Wildlife Agencies to further define the process needed to merge the two entities. In addition, the RCA (and we assume the RCHCA) would want assurances that the Wildlife Agencies would not place conditions on the merger that would impact the Authority operationally or financially.

FUNDING ISSUES

As we understand it, reserve assembly is complete for the SKR Plan and the development mitigation fees collected for the Plan are used primarily for management and administration. The MSHCP, on the other hand, is at the beginning of a 25-year acquisition program funded primarily from development fees, which are generally restricted to land purchases. The RCA's management and monitoring programs are funded by tipping fees, which contribute about \$2.4 million annually. Two questions come to mind:

1. Once a merger is complete, can the SKR funds be mingled with RCA management funds?
2. If not, how do we separate and account for funds when we manage species (including the SKR) in the aggregate?

The issues raised herein are not insurmountable, but will require extensive discussion with the RCHCA, and the Wildlife Agencies to ensure that all parties are in agreement on the merger process. A merger will require action from both organizations, and the RCHCA clearly needs to weigh in on the matter.

Staff Recommendation:

That the RCA Board of Directors:

Receive and file.