



EXECUTIVE COMMITTEE MINUTES WEDNESDAY, JANUARY 21, 2009

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1. CALL TO ORDER

The meeting of the Western Riverside County Regional Conservation Authority Executive Committee was called to order by Chairman Bob Buster at 12:09 p.m. in the RCA Conference Room, 3403 Tenth Street, Suite 320, Riverside, California.

2. ROLL CALL

Committee/Alternate Members Present

Bob Buster
Frank Hall
Jim Hyatt
Melissa Melendez
Eugene Montanez
Jeff Stone
Gary Thomasian

Committee Member Absent

None

At this time, Chairman Buster welcomed Melissa Melendez and Frank Hall, representatives of the cities of Lake Elsinore and Norco, to the Executive Committee.

3. PUBLIC COMMENTS

There were no public comments.

4. COMMITTEE MEMBER ANNOUNCEMENTS

There were no Committee Member announcements.

5. ADDITIONS/REVISIONS

There were no additions or revisions to the agenda.

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6. APPROVAL OF MINUTES

M/S/C (STONE/HYATT) to approve the minutes of the November 19, 2008 meeting of the Executive Committee, as submitted.

Abstained: Melendez, Hall

7. FISCAL YEAR 2008-09 FIRST QUARTER FINANCIAL REPORT AND BUDGET ADJUSTMENTS

Honey Bernas, Director of Administrative Services, reviewed RCA's first quarter financial report and the proposed budget adjustments for Fiscal Year 2008-09. As of September 30, 2008, there was a cash balance of \$15,700,000. Budget adjustments in Operations and Land Acquisitions are necessary. In Operations it is necessary to increase revenue by \$2,538,872 due to an unanticipated Participating Special Entity application, and appropriations need to be increased by \$9,000 due mainly to the purchase of unanticipated office equipment. In Land Acquisitions, it is necessary to increase revenue by \$59,407,960 due mainly to Measure A contributions and state and federal grants. Appropriations need to be increased by \$59,273,460 due primarily to property acquired.

Honey Bernas advised that MSHCP Fees were down approximately 28% compared to the same period last year. In Operations, staff is projecting a shortfall of approximately \$97,000 in MSHCP fees, \$177,000 in infrastructure contributions, and \$212,500 in civic projects. Contracts will be reduced by approximately 25% to offset the shortfall. The proposed budget adjustments provide \$1.9 million surplus for Operations due to the \$2.5 million in revenue from the Southern California Edison Participating Special Entity. A reallocation of \$86,000 in tipping fees will be made to the Management/Monitoring Department to help cover the anticipated shortfall in that department. In Land Acquisitions, staff is projecting a shortfall of approximately \$3.1 million in MSHCP Fee revenue. There may be a need to draw an additional \$2.1 million from cash reserves. There is a \$2 million contingency budgeted for legal liabilities, which could help offset the additional draw on cash. In Management and Monitoring, Tipping Fees account for approximately 77% of the budget. Revenue is projected to be approximately \$79,000 below budget. To help offset this shortfall, contracts and expenditures for office supplies and non-fixed asset equipment will be reduced. In addition to the \$86,000 in Tipping Fees, approximately \$55,000 of Participating Special Entity revenue will be reallocated to Management and Monitoring to help offset the projected shortfall in this department.

In response to Jim Hyatt's question regarding year-end projections and incoming revenues, Honey Bernas stated that she will include the information in the report when this item is presented to the RCA Board.

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Gary Thomasian asked for an update from consultants on the status of potential funding for RCA and Charlie Landry, Executive Director, said that the recent change in Washington D.C. has impeded the work towards securing funds. A report to the RCA Board will be placed on the agenda.

Jim Hyatt asked staff to clarify the difference in the budgeted amounts and the projected amounts in the contracts, and Charlie Landry said that the projected amounts through June 30 2009 are less, in an effort to reduce contract amounts by approximately 25%.

In response to Jim Hyatt's questions on projected plans for Public Outreach budget item and the over-budget amount for RAND, Honey Bernas said that the Public Outreach budget item is for the development of brochures, public announcements, etc. The amount shown for RAND was a carryover for a billing from the previous fiscal year. Charlie Landry added that because of the economic situation, plans for Public Outreach are being delayed.

A discussion followed on ideas for an outreach program and whether to leave this item in the budget. It was determined to leave the item on the budget and that staff present a report on ideas and suggestions for the program.

M/S/C (THOMASIAN/STONE) to:

- 1) Receive and file the Fiscal Year 2008-09 First Quarter Financial Statements;***
- 2) Approve the Budget Adjustments contained in Exhibit A; and***
- 3) Authorize staff to agendize this matter for the February 2, 2009 meeting of the RCA Board of Directors.***

8. AMENDMENTS TO THE JOINT POWERS AGREEMENT, THE IMPLEMENTING AGREEMENT, AND THE BYLAWS TO ADD THE CITIES OF MENIFEE AND WILDOMAR TO THE WESTERN RIVERSIDE COUNTY REGIONAL CONSERVATION AUTHORITY

Michelle Ouellette, Legal Counsel, stated that the cities of Menifee and Wildomar wish to join the Western Riverside County Regional Conservation Authority. In order add the two cities, the following steps must be taken: 1) Amend the joint powers agreement to add Menifee and Wildomar; 2) Amend the bylaws to update the acreage used in to formulate the weighted vote section; and, 3) Execute an amendment to the Implementing Agreement by the RCA, Menifee, Wildomar and the Wildlife Agencies.

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With regard to the weighted vote section of the bylaws, the acreages used to formulate the weighted vote is being changed from the number of acres within the Criteria Area **anticipated** to be conserved in each of the incorporated areas **to** the number of acres in the Criteria Area in each of the incorporated area.

In response to Chairman Buster on how the change in the acreages in the weighted vote section affect the County of Riverside, Steve DeBaun said that there are three tests to the weighted vote and the County of Riverside vote is separate from the other member agencies.

M/S/C (STONE/THOMASIAN) to:

- 1) ***Recommend that the RCA Board of Directors approve and direct staff to send the Amendment No. 3 to the Joint Exercise of Powers Agreement Creating the Western Riverside County Regional Conservation Authority to the member agencies for execution;***
- 2) ***Recommend that the RCA Board of Directors introduce Resolution No. 09-001, Resolution of the Board of Directors of the Western Riverside County Regional Conservation Authority Amending the Weighted Voting Section of Its Bylaws to add the Cities of Menifee and Wildomar, and direct staff to agendize for adoption at the next regularly scheduled meeting;***
- 3) ***Recommend that the RCA Board of Directors execute the First Amendment to the Implementing Agreement for the Western Riverside County Multiple Species Habitat Conservation Plan/Natural Community Conservation Plan; and***
- 4) ***Authorize staff to agendize this matter for the February 2, 2009 meeting of the RCA Board of Directors.***

9. CLARIFICATION OF TENETS REGARDING INFRASTRUCTURE CONTRIBUTION TO MSHCP

Executive Director Charles Landry advised the Committee that the current infrastructure tenets adopted by the Board on February 7, 2007, required some clarification. The original tenets did not address developer constructed General Plan roads. After meeting with several Permittee staffs, RCA staff recommends that the commercial/industrial per acre fee, rather than the 5% infrastructure fee, be applied to

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developer constructed general plan roads associated with residential and commercial developments. Staff is also recommending that the commercial industrial fee be applied to non-transportation linear public works projects, such as water lines, sewer lines, and similar facilities.

Jim Hyatt asked when these fees were established and whether this is a fair fee for a city such as Calimesa with no facilities or administration building in comparison with cities with infrastructure built out. Charlie Landry advised that the tenets were approved by the RCA Board two years ago. The fee is for cities and the County to mitigate for disturbance that is occurring.

In response to Eugene Montanez as to fee per acre, Charlie Landry said that the fee is \$6,597 per acre.

M/S/C (STONE/HYATT) to recommend to the Board of Directors to:

- 1) Endorse the tenets regarding MSHCP infrastructure contributions;***
- 2) Direct staff to forward the tenets to the County Executive Office and City Managers;***
- 3) Direct staff to continue to work with the County and cities to ensure that qualified infrastructure projects contribute to the Plan; and***
- 4) Authorize staff to agendize this matter for the February 2, 2009 meeting of the RCA Board of Directors.***

10. RATIFICATION OF 2009 RCA EXECUTIVE COMMITTEE

M/S/C (STONE/MONTANEZ) to:

Abstained: Buster

- 1) Recommend that the RCA Board of Directors ratify Chairman Buster's appointments to the Executive Committee for 2009; and***
- 2) Direct staff to agendize this matter for the February 2, 2009 meeting of the RCA Board of Directors.***

11. REPORT BACK REGARDING RCHCA / RCA MERGER

Charlie Landry advised that RCA was asked to report back on pros on cons of a RCHCA / RCA Merger. He stated that the MSHCP Plan envisioned an eventual merger of the RCA and the RCHCA. The merger could take place: 1) at the end of the permit life of the RCHCA; or, 2) at an earlier time. Charlie Landry advised that it should be noted that a merger would require agreement of both the RCA and the RCHCA. He noted that such a merger may require amendments to each of the Plans and that it is unclear whether a major or minor amendment would be needed. RCHCA Legal Counsel has opined that such a merger would require a major amendment.

Michelle Ouellette, Legal Counsel, said that the when the MSHCP was being drafted, there was extensive discussion on whether the SKR Plan be rolled into the MSHCP at the time of approval. Ultimately, it was decided to keep the two Plans separate because, at that time, significant litigation was anticipated from an individual on the MSHCP. With the SKR Plan in place, rather than placing adverse ramifications to the Plan, it was determined to keep the two Plans separate as long as their respective Boards wish to keep it separate. The Implementation Agreement (IA) states that when the SKR Plan expires after its 30 year term, it will be rolled into the MSHCP or at any time that the permittees decide to do so. In accordance to the IA, an amendment is required but it does not state whether it be a major or a minor amendment. The difference is significant. A minor amendment would require an administrative process whereas a major amendment would have to undergo CEQA and NEPA compliance and perhaps open up the MSHCP. At this point, the possibility of a merger has not been discussed with the Wildlife Agencies.

Charlie Landry noted if such a merger calls for a major amendment, it would require significant funding. To accomplish a major amendment at a fiscally challenging time would be a significant hurdle. Then again if the MSHCP goes through the major amendment process, there are additional changes to the MSHCP needed to be made.

In response to Jeff Stone's question if the RCA were to proceed towards a major amendment process if it will expose the agency to some type of litigation, thus, jeopardizing the Plan. Michelle Ouellette said that a major amendment is a discretionary action taken by the RCA Board and such process will trigger CEQA and NEPA. A supplemental EIR and EIS will need to be done to analyze the impacts of what needs to occur in order to move take coverage from the SKR into the MSHCP since the SKR boundaries do not cover the entire MSHCP boundaries.

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Jeff Stone expressed his concern about embarking on a major amendment process to merge the RCA and RCHCA because of the exposure to litigation and the significant expense for the studies. Charlie Landry advised that if we are going to open the Plan, there are additional things we would like to include in the amendment. Jeff Stone commended Chairman Buster for the idea to merge the two agencies for efficiency sake but felt that additional discussion needs to take place and that it may be a timing issue. He added that at this time, the RCHCA is focusing more on management, while the RCA has not really gotten into that mode as of yet.

Eugene Montanez said that if the process requires a major amendment, there are issues covered in the RAND Study with regard to linkages, which could be included in the major amendment process. In the meantime, he proposed developing a wish list of items needed to be changed in the MSHCP and then discuss a time suitable to put all of this together into one cohesive change. There may be some items such as management and monitoring that RCHCA is already performing and the RCA is looking to implement which could be started to be placed in one department, as opposed to two agencies, for cost-effectiveness, as Supervisor Stone referred to.

Gary Thomasian stated that the two issues mentioned – cost-effectiveness and the merger of the two agencies to streamline the process – should be discussed separately because RCA is still in the acquisition mode and has focused very little time on management and outreach programs while the RCHCA, which was established well before the RCA, has already put in place management practices. Charlie Landry advised that the RCA is currently managing property and developing management plans. Gary Thomasian stated that the potential of opening the MSHCP for future litigation while the two Boards sort out the merger will stifle development in Riverside County. He agreed with identifying the changes needed to be made for the MSHCP, but the merger should come at a time when the RCA has acquired more reserve lands. At that time, they could appropriate more revenues to management and monitoring.

Chairman Buster noted that the RCA intends to undertake a major amendment at some point in time. Jim Hyatt advised that the City of Calimesa has identified changes they would like included in the amendment wish list, and he would support moving forward on a wish list. Frank Hall concurred that a wish list should be developed. Gary Thomasian asked if the MSHCP requires the development of a Memorandum of Understanding between the RCHCA and RCA prior to discussions regarding a merger. He stated that the SKR management plan should be in place prior to discussions regarding a merger.

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Chairman Buster stated that he has observed that when the economy is down, it is a good time to do these rearrangements. He stated that prima facie everyone agrees we should deal with habitat rather than species individually. From a public standpoint, having one habitat agency would result in simplicity, pooling of assets to secure grant funding, etc. He stated that although RCHCA is at a different stage than this agency, perhaps you could have a combination of efforts going on for an interim period. Chairman Buster stated that Board Members who serve on both agencies would attend one meeting rather than two. From a public standpoint, he does not see how one can argue against it. He stated that a merger needs to occur at some point.

Gail Barton, RCHCA Principal Planner, informed the Executive Committee that her involvement with the SKR HCP goes back to day one as a property owner. She advised that the RCHCA Stakeholder Advisory Committee became the Advisory Committee for the MSHCP of which she became Chairman. She stated that it is nice that the SKR HCP is completed. The land acquisition is done, and it's nice to see that there is something up and running. There is a lot of management going on, and they have reserve managers on the ground. The RCHCA is actually doing the kinds of things that the RCA is going to have to be doing. On a smaller scale, RCHCA is sort of the test lot. She indicated that the Implementing Agreement for the MSHCP does not actually say that the two agencies will have to be merged. It says first of all that they will stay separate. It does allude to a Memorandum of Understanding for management and that the SKR reserves should be managed for multiple species, which would boast the MSHCP. She stated that the MSHCP states that within a certain period of time MOUs will be crafted for all of the other managing entities.

Carolyn Syms Luna, RCHCA Executive Director, stated that the SKRHCP sunsets in 2026. An issue is SKR coverage at the culmination of the Plan, and at some point, coverage has to be addressed. Without SKR coverage, any development in those areas would have to be sent to the U. S. Fish and Wildlife Service and California Department of Fish and Game to obtain permits. To avoid this, the IA contemplates is RCA taking a look at this. The dilemma we have right now is an issue of timing. She does not believe anyone would disagree that we have address this issue. However, the way the Implementation Agreements are written, it's not very simple regardless of whether a minor or major amendment is required on the RCA side. Terminating the SKRHCP and merging it with the MSHCP will require the Wildlife Agencies' approval which may take some time and provide an opportunity for the Wildlife Agencies to add and/or impose conditions and demands. Additionally, the fee monies that are in the coffers go to the U.S. Fish and Wildlife Service and Department of Fish and Game to do with as they see fit. There may be misunderstanding or an assumption that the monies are automatically committed to whatever organization takes over the SKR Permit. Additionally, the RCA may decide they don't want to assume the management and monitoring responsibilities. Though it has not been discussed with the RCHCA Board, she is contemplating the discussion on the SKR coverage to start in 2016 which will provide sufficient time for discussions prior to the SKR permit expiring in 2026.

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Embarking on a merger process at this time will consume a lot time, effort and money that could be spent elsewhere. She understood Chairman Buster's point with regard to public perception. She suggests considering setting a 2016 date which will give RCA approximately seven or eight years to assess its fiscal soundness, have its management and monitoring operations in place, and have a better concept of maintenance costs. It would also give the RCHCA an opportunity to further fine tune its management and monitoring operations, however, in the interim period, working via the MOU with the RCA to make them, if they so desire to, be a receiver of the management and monitoring responsibility.

Chairman Buster felt that the Wildlife Agencies should be agreeable to promoting a unified approach toward conservation. The work that the Riverside County agencies have accomplished with the acres of preserved lands that have been acquired to date is beneficial in our efforts to secure funds in Washington, D.C. He would argue that the process to merge the two agencies would only require a minor amendment. He believes that by streamlining government and capturing the best parts of the agencies in the merger would be more effective legally, operationally, and fiscally. In addition, it would be one less meeting for public officials to attend.

In response to Jim Hyatt's question if it will need a major amendment process for Calimesa's criteria refinement request, Charlie Landry said that a criteria refinement will not require a major amendment process as the process is already in the Plan.

Jim Hyatt noted the need to set the criteria refinement in motion because of the Cherry Boulevard overpass project being fast tracked through the County of Riverside. There is a 7' box culvert that is a major thoroughfare under the freeway and he is afraid that a delay would result in losing protection of the access to connect to the San Bernardino Mountains.

Charlie Landry said that RCA staff meets with County TLMA on a weekly basis that he will bring this item up.

Jeff Stone asked what the timeline is to start discussion the number of items mentioned such as whether a merger of the two agencies would require a minor or major amendment and developing the list of items needed to be refined or amended in the MSHCP. Charlie Landry and Michelle Ouellette indicated that a proposal could be presented to the Committee in six months.

The Executive Committee directed staff to report back in six months with a wish list of items to be included in a major amendment. In addition, look at scheduling the meetings of the RCA Executive Committee and the RCHCA Board on the same day.

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12. DISCUSSION REGARDING RAND REPORT – CHAPTER 8, *THE MSHCP's EFFECT ON THE PERMITTING PROCESS FOR TRANSPORTATION AND DEVELOPMENT PROJECTS*

Charlie Landry reported on Chapter 8 as it related to the: 1) Effect of the MSHCP on the permittee process; 2) Land acquisition and reserve operating costs; 3) Analysis of alternative land acquisition strategies; 4) Revenue strategies; 5) Meeting rough-step goals; and, 6) Strategic issues to move forward. Twenty-two (22) interviews and nineteen (19) questionnaires from transportation agencies, wildlife agencies, cities, County, environmental groups, as well as some attorneys, were completed regarding the MSHCP effects on infrastructure and development projects. It was found that the MSHCP has accelerated the permittee process for road projects affecting listed species, providing time savings ranging from one to five years. Specific roads that benefitted were Clinton Keith, River Road Bridge, Mid-County Parkway, and Route 79. Caltrans road safety and maintenance projects on Routes 79, 74, 91 and Interstates 15 and 215, which typically have to undergo a large environmental assessment, saved six months to one year. It is also believed that MSHCP reduced litigation to stop or modify projects. RAND used a detailed computer model to analyze the effect of quicker completion of CETAP corridors. The average speeds are 1 to 2 miles per hour greater with projects in place and that the value of saved time across all drivers can total hundreds of millions of dollars annually.

Charlie Landry continued and said that the findings on the MSHCP's effects were not uniformly positive as it related to supporting with the Clean Water Act and State streambed alternation permits were not as large as expected. This was because the MSHCP is focused on Section 10 endangered species. He noted that there is a Special Area Management Plan (SAMP) in progress that RCA staff is participating along with Riverside County Flood Control and County TLMA. They are waiting for the Corps of Engineers to make a determination on what exactly those regional permits will be. At that time, there will be an expedited process in the Clean Water Act for regional general permits, under the SAMP. RCA would probably handle the permits. Since it is under Section 10, it will not require a major amendment. The RAND survey indicated that the cost of the permitting process increased for some projects but this is due to additional specific surveys to be conducted. Finally, the effects on commercial, industrial, and residential development projects were mixed.

13. EXECUTIVE DIRECTOR'S REPORT

There was no Executive Director's report.

14. FUTURE AGENDA ITEMS

In response to Gary Thomasian's question about granting City Fire Departments access to reserve lands adjacent to the city boundary lines, Ken Graff, Director of Land

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Acquisitions and Reserve Management, stated RCA staff is working with Cal Fire (California Department of Forestry and Fire Protection) in developing a detailed Fire Response Plan. Gary Thomasian requested that staff provide an update on the plan, including a coverage map, to the Executive Committee.

At this time, Honey Bernas informed the Executive Committee that the County of Riverside has indicated that they have scheduled budget hearings for May 4, which is the same date as the RCA Board of Directors meeting, and has requested that the RCA change their meeting day. The Board Room is available on May 11 and on May 14. She will check the availability of the Executive Committee members for these dates and will place this item on the February 2, 2009 RCA Board Agenda.

15. ADJOURNMENT

There being no other items before the Executive Committee, Chairman Buster adjourned the meeting at 1:45 p.m. The next meeting of the Western Riverside County Regional Conservation Authority Executive Committee will be held on Wednesday, February 18, 2009, at 12:00 p.m., at the RCA Offices, 3403 Tenth Street, Suite 320, Third Floor, RCA Conference Room, Riverside, California, 92501.

Respectfully submitted,



Honey Bernas
Clerk of the Board