



Established in 2004, the Western Riverside County Regional Conservation Authority is a joint powers authority consisting of sixteen (16) cities and the county. The RCA is charged with administering the 2003 Western Riverside County Multiple Species Habitat Conservation Plan.

---

## MEETING

1:00 P.M., Monday, November 1, 2010  
Riverside County Administrative Center  
First Floor, Board Room  
4080 Lemon Street, Riverside, California 92501

---

## BOARD OF DIRECTORS

### OFFICERS

Gary Thomasian, Chairman  
*City of Murrieta*

Marion Ashley, Vice Chairman  
*County of Riverside, District 5*

Bob Buster, Past Chairman  
*County of Riverside, District 1*

### BOARD MEMBERS

John Machisic  
*City of Banning*

Kevin Bash  
*City of Norco*

Vacant  
*City of Beaumont*

Mark Yarbrough  
*City of Perris*

Jim Hyatt  
*City of Calimesa*

Mike Gardner  
*City of Riverside*

Jordan Ehrenkranz  
*City of Canyon Lake*

Steve DiMemmo  
*City of San Jacinto*

Eugene Montanez  
*City of Corona*

Maryann Edwards  
*City of Temecula*

Robin Lowe  
*City of Hemet*

Bob Cashman  
*City of Wildomar*

Melissa Melendez  
*City of Lake Elsinore*

John Tavaglione  
*County of Riverside District 2*

John Denver  
*City of Menifee*

Jeff Stone  
*County of Riverside District 3*

Bill Batey  
*City of Moreno Valley*

John Benoit  
*County of Riverside District 4*

Charles Landry, Executive Director



## MEETING AGENDA

*\*Actions may be taken on any item listed on the agenda. Non-exempt materials related to an item on this agenda submitted to the RCA Board after distribution of the agenda packet are available for public inspection at the RCA Offices, 3403 Tenth Street, Suite 320, Riverside, California, during normal business hours. Such documents are also available on the Western Riverside County Regional Conservation Authority website at [www.wrc-rca.org](http://www.wrc-rca.org) subject to staff's ability to post the documents before the meeting.*

**Monday, November 1, 2010**

**1:00 p.m.**

**Riverside County Administrative Center  
First Floor Annex – Board Hearing Room  
4080 Lemon Street  
Riverside, CA 92501**

*In compliance with the Americans with Disabilities Act and Government Code Section 54954.2, if special assistance is needed to participate in a Board meeting, please contact the Clerk of the Board at (951) 955-9700. Notification of at least 48 hours prior to meeting time will assist staff in assuring that reasonable arrangements can be made to provide accessibility at the meeting.*

- 1. CALL TO ORDER**
- 2. ROLL CALL**
- 3. PUBLIC COMMENTS**

At this time members of the public can address the RCA Board of Directors regarding any items within the subject matter jurisdiction of the Board that are not separately listed on this agenda. Members of the public will have an opportunity to speak on agenda items at the time the item is called for discussion. No action may be taken on items not listed on the agenda unless authorized by law. Each individual speaker is limited to speak three (3) continuous minutes or less. Any person wishing to address the Board on any matter, whether or not it appears on this agenda, is requested to complete a "Request to Speak" form from the Clerk of the Board. The completed form is to be submitted to the Clerk of the Board prior to an individual being heard. Whenever possible, lengthy testimony should be presented to the Board in writing and only pertinent points presented orally. Any written documents to be distributed or presented to the RCA Board of Directors shall be submitted to the Clerk of the Board.

- 4. BOARD MEMBER ANNOUNCEMENTS** *(This item provides the opportunity for the Board Members to report on attended meetings/conferences and any other items related to RCA activities.)*
- 5. ADDITIONS/REVISIONS** *(The Board may add an item to the Agenda after making a finding that there is a need to take immediate action on the item and that the item came to the attention of the Board subsequent to the posting of the agenda. An action adding an item to the agenda requires 2/3 vote of the Board. If there are less than 2/3 of the Board Members present, adding an item requires a unanimous vote. Added items will be placed for discussion at the end of the agenda.)*

## RCA BOARD OF DIRECTORS AGENDA

Page 2 of 3

November 1, 2010

### 6. APPROVAL OF MINUTES

### 7. CONSENT CALENDAR *(All matters listed under the Consent Calendar will be approved in a single motion unless a Board Member requests separate action on specific Consent Calendar item. The item will be pulled from the Consent Calendar and placed for discussion.)*

#### 7.1 RESOLUTION NO. 10-008, "RESOLUTION OF THE BOARD OF DIRECTORS OF THE WESTERN RIVERSIDE COUNTY REGIONAL CONSERVATION AUTHORITY AMENDING THE CONFLICT OF INTEREST CODE PURSUANT TO THE POLITICAL REFORM ACT OF 1974"

##### Overview

This item is for the RCA Board of Directors to:

- 1) Adopt Resolution No. 10-008, "Amending the Conflict of Interest Code Pursuant to the Political Reform Act of 1974"; and
- 2) Direct staff to submit the Amended Code to the County of Riverside Board of Supervisors.

#### 7.2 CLARIFICATION TO THE LAND ACQUISITION POLICIES

##### Overview

This item is for the RCA Board of Directors to approve the Clarification to the Land Acquisition Policies.

### 8. QUARTERLY REPORT – DOUG WHEELER

##### Overview

This item is for Doug Wheeler, RCA Consultant, to report on the status of the proposal for a federal loan guarantee program.

### 9. EXECUTIVE DIRECTOR'S REPORT

### 10. LAND ACQUISITION UPDATE

### 11. FUTURE AGENDA ITEMS *(Board Members are invited to suggest additional items to be brought forward for discussion.)*

**RCA BOARD OF DIRECTORS AGENDA**

**Page 3 of 3**

**November 1, 2010**

**12. CLOSED SESSION ITEMS:**

**12.1 CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**

**Pursuant to Subdivision (a) of Government Code Section 54956.9**

- **RIC 530137 Anheuser Busch**
- **RIC 10015716 Wilhelm Ranch**

**13. ADJOURNMENT**

The next meeting of the Western Riverside County Regional Conservation Authority Board of Directors is scheduled for Monday, December 6, 2010, at 1:00 p.m., at the County of Riverside Administrative Center, Board Room, 4080 Lemon Street, Riverside, California.

# **AGENDA ITEM NO. 6**

## **MINUTES**



[www.wrc-rca.org](http://www.wrc-rca.org)

---

## **MEETING MINUTES**

**October 4, 2010**

### **1. CALL TO ORDER**

The meeting of the Board of Directors of the Western Riverside County Regional Conservation Authority was called to order by Chairman Gary Thomasian at 1:02 p.m. in the Board Room of the County Administrative Center, 4080 Lemon Street, First Floor, Riverside, California, 92501.

### **2. ROLL CALL**

#### **Board Members/Alternates Present**

Bob Buster  
Kevin Bash  
John Denver  
Steve Di Memmo  
Maryann Edwards  
Jordan Ehrenkranz  
Mike Gardner  
Jim Hyatt  
Robin Lowe  
John Machisic  
Melissa Melendez  
Eugene Montanez  
Jeff Stone  
John Tavaglione\*  
Gary Thomasian  
Ella Zanowic

#### **Board Members Absent**

Bill Batey  
John Benoit  
Bob Cashman  
Mark Yarbrough

### **3. PUBLIC COMMENTS**

There were no public comments.

### **4. BOARD MEMBER ANNOUNCEMENTS**

There were no Board Member announcements.

\*Arrived after start of the meeting.

## **RCA BOARD OF DIRECTORS MINUTES**

**October 4, 2010**

**Page 2 of 4**

### **5. ADDITIONS/REVISIONS**

There were no additions/revisions to the agenda.

### **6. APPROVAL OF MINUTES**

***M/S/C (HYATT/MONTANEZ) to approve the minutes of the September 13, 2010 meeting of the RCA Board of Directors.***

### **7. CONSENT CALENDAR**

***M/S/C (LOWE/GARDNER) to approve the following Consent Calendar item:***

#### **7.1 "GRANT FUNDS" PROFESSIONAL SERVICES AGREEMENT BETWEEN THE WESTERN RIVERSIDE COUNTY REGIONAL CONSERVATION AUTHORITY (RCA) AND SANTA ANA WATERSHED ASSOCIATION (SAWA)**

- 1) Approve the "Grant Funds" Professional Services Agreement between the RCA and SAWA (Agreement No. 11004); and
- 2) Authorize the Executive Director, pursuant to legal counsel review and approval, to execute the agreement.

### **8. EXECUTIVE DIRECTOR'S REPORT**

Charlie Landry, Executive Director, reported on the following items:

#### **8.1 Quarterly Report – Doug Wheeler**

RCA engaged Doug Wheeler to develop, process, and secure support for a federal loan guarantee program. A discussion draft of the legislative proposal was developed and worked on for the past three months. Efforts were focused on gaining concurrence from Senator Dianne Feinstein, Congressman Ken Calvert, Congressional staff of Committees with jurisdiction to approve such items, representatives of the Executive Branch agencies with responsibility for administering the loan program, Senate and House Legislative Counsels, and budget analysts of the Congressional Budget Office and the Office of Management and Budget. A second draft bill was developed to eliminate the revolving loan feature and incorporates suggestions from the various meetings and telephone calls. A third draft, proposed by Senator Feinstein's staff in cooperation with the congressional legislative counsel, was developed. The latest draft considers a ten-year loan guarantee program which would be administered by the Secretary of Interior, in consultation with the Secretary of Treasury. This is being scored by the Congressional Budget Office and if found to have minimal budget impact and meets RCA's objective, will be introduced by Senator Feinstein and Congressman Calvert prior to adjournment of the current Congress.

**8.2 City of Eastvale**

Staff will be meeting with City staff to commence processing their participation and membership in the RCA.

**9. LAND ACQUISITION UPDATE**

Brian Beck, Land Acquisition Analyst, reported that since the last meeting, RCA acquired one additional property of approximately 13 acres, bringing the total reserve land to 42,175 acres.

**10. ITEMS FOR NEXT MEETING**

There were no agenda items suggested by Board Members for the next meeting.

At this time, Chairman Thomasian adjourned the meeting to Closed Session.

**11. CLOSED SESSION ITEMS:**

**11.1 CONFERENCE WITH REAL PROPERTY NEGOTIATOR**

**Pursuant to Government Code Section 54956.8**

**Negotiating Parties:** RCA – Executive Director or Designee

**Under Negotiation:** Price/Terms

<b>Item</b>	<b>Assessor Parcel No.</b>	<b>Property Owners</b>
1	940-140-012	Lowe Family Trust, John P. Lowe, Shirley G. Lowe

**11.2 CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**

**Pursuant to Subdivision (a) of Government Code Section 54956.9**

- **RIC 530137 Anheuser Busch**
- **RIC 10015716 Wilhelm Ranch**

There were no announcements from the Closed Session items and the meeting reconvened.

**12. ADJOURNMENT**

There being no other items to be discussed, Chairman Thomasian adjourned the meeting. The next meeting of the Western Riverside County Regional Conservation Authority Board of Directors is scheduled for Monday, November 1, 2010, at 1:00 p.m., at the County of Riverside Administrative Center, Board Room, 4080 Lemon Street, Riverside, California.

Respectfully submitted,



Honey Bernas  
Clerk of the Board

# **AGENDA ITEM NO. 7.1**

## **APPROVAL OF RESOLUTION NO. 10-008**

**“RESOLUTION OF THE BOARD OF  
DIRECTORS OF THE WESTERN  
RIVERSIDE COUNTY REGIONAL  
CONSERVATION AUTHORITY  
AMENDING THE CONFLICT OF  
INTEREST CODE PURSUANT TO THE  
POLITICAL REFORM ACT OF 1974”**

*Regional Conservation Authority*

**APPROVAL OF RESOLUTION NO. 10-008,  
“RESOLUTION OF THE BOARD OF DIRECTORS OF THE WESTERN  
RIVERSIDE COUNTY REGIONAL CONSERVATION AUTHORITY AMENDING  
THE CONFLICT OF INTEREST CODE PURSUANT TO THE POLITICAL  
REFORM ACT OF 1974”**

**Staff Contact:**

Honey Bernas  
Director of Administrative Services  
(951) 955-9700

**Background:**

The Political Reform Act of 1974, Government Code Section 81000 et seq. (the “Act”), requires all public agencies to adopt and promulgate a conflict of interest code. The Act further requires that no later than July 1 of each even-numbered year, a code-reviewing body must direct all subject agencies to conduct a review of their conflict of interest codes. Because the Authority has jurisdiction wholly within Riverside County, the County Board of Supervisors is the Authority’s code-reviewing body. As the Authority’s code-reviewing body, the Clerk of the Board of Supervisors directed that the Authority’s Conflict of Interest Code (“Code”) be reviewed and, if a change in the Code is necessitated, that a revised Code be submitted to the Board of Supervisors for approval.

During the review process, staff found that there were changed circumstances within the Authority necessitating substantive amendment to the Authority’s Code. Revisions must be submitted to the code-reviewing body within ninety (90) days from the date of filing the statement of review filed with the Clerk of the Board of Supervisors.

Attached is a redlined version of the proposed amended Code showing the changes to be made. The proposed amendment includes a new position that must be designated, revises disclosure categories, revises the title of an existing position, and adopts 2 Cal. Code of Regulations Section 18730 as the provisions of the Code (FPPC Standard Provisions).

**Executive Committee and Staff Recommendations:**

That the RCA Board of Directors:

- 1) Adopt Resolution No. 10-008, “*Amending the Conflict of Interest Code Pursuant to the Political Reform Act of 1974*”; and
- 2) Direct staff to submit the Amended Code to the County of Riverside Board of Supervisors for approval.

**Attachments:**

1. Resolution No. 10-008 with Amended Conflict of Interest Code
2. Legislative Version to Show Changes made to Conflict of Interest Code
3. Notice of Intention

# **AGENDA ITEM NO. 7.1**

**Attachment 1  
Resolution No. 10-008  
Amended Conflict of Interest Code**

**RESOLUTION NO. 10-008**

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE  
WESTERN RIVERSIDE COUNTY REGIONAL  
CONSERVATION AUTHORITY AMENDING THE  
CONFLICT OF INTEREST CODE PURSUANT TO THE  
POLITICAL REFORM ACT OF 1974**

**WHEREAS**, the Legislature of the State of California enacted the Political Reform Act of 1974, Government Code Section 81000 et seq. (the "Act"), which contains provisions relating to conflicts of interest which potentially affect all officers, employees and consultants of the Western Riverside County Regional Conservation Authority ("RCA") and requires all public agencies to adopt and promulgate a Conflict of Interest Code; and

**WHEREAS**, the Board of Directors adopted a Conflict of Interest Code (the "Code") which was amended on December 10, 2008, in compliance with the Act; and

**WHEREAS**, subsequent changed circumstances within RCA have made it advisable and necessary pursuant to Sections 87306 and 87307 of the Act to amend and update RCA's Code; and

**WHEREAS**, the potential penalties for violation of the provisions of the Act are substantial and may include criminal and civil liability, as well as equitable relief which could result in RCA being restrained or prevented from acting in cases where the provisions of the Act may have been violated; and

**WHEREAS**, notice of the time and place of a public meeting on, and of consideration by the Board of Directors of, the proposed amended Code was provided each affected designated employee and publicly posted for review; and

**WHEREAS**, a public meeting was held upon the proposed amended Conflict of Interest Code at a regular meeting of the Board of Directors of RCA on November 1, 2010, at which all present were given an opportunity to be heard on the proposed amended Code.

**NOW, THEREFORE, THE BOARD OF DIRECTORS OF THE WESTERN RIVERSIDE COUNTY REGIONAL CONSERVATION AUTHORITY DOES HEREBY RESOLVE AS FOLLOWS:**

**SECTION 1.** The Board of Directors of RCA does hereby adopt the proposed amended Conflict of Interest Code, a copy of which is attached hereto and shall be on file with the Director of Administrative Services and available to the public for inspection and copying during regular business hours.

**SECTION 2.** The said amended Conflict of Interest Code shall be submitted to the Board of Supervisors of the County of Riverside for approval.

**SECTION 3.** The said amended Conflict of Interest Code shall become effective 30 days after the date the Riverside County Board of Supervisors approves the proposed Code as submitted.

**PASSED, APPROVED AND ADOPTED** this 1<sup>st</sup> day of November, 2010.

BY: \_\_\_\_\_  
Gary Thomasian, Chairman  
Western Riverside County  
Regional Conservation Authority

ATTEST:

\_\_\_\_\_  
Honey Bernas, Clerk of the Board  
Western Riverside County  
Regional Conservation Authority

# **CONFLICT OF INTEREST CODE OF THE WESTERN RIVERSIDE COUNTY REGIONAL CONSERVATION AUTHORITY**

**(Adopted November 1, 2010)**

The Political Reform Act (Government Code Section 81000, et seq.) requires state and local government agencies to adopt and promulgate conflict of interest codes. The Fair Political Practices Commission has adopted 2 Cal. Code of Regs. Section 18730 which contains the terms of a standard conflict of interest code which can be incorporated by reference in an agency's code. After public notice and hearing, Section 18730 may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act. Therefore, the terms of 2 California Code of Regulations Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This regulation and the attached Appendix designating officials and employees and establishing disclosure categories, shall constitute the conflict of interest code of the Western Riverside County Regional Conservation Authority (the "Authority").

All Officials and Designated Employees required to submit a statement of economic interests shall file their statements with the Director of Administrative Services as the Authority's Filing Officer. The Filing Officer shall make and retain a copy of all statements filed by Members of the Board of Directors and their Alternates, the Executive Director and the Treasurer, and forward the originals of such statements to the Clerk of the Board of Supervisors. The Filing Officer shall retain the originals of the statements of all other Designated Employees. The Filing Officer will make all retained statements available for public inspection and reproduction during regular business hours (Gov. Code Section 81008).

**APPENDIX**  
**CONFLICT OF INTEREST CODE**  
**OF THE**  
**WESTERN RIVERSIDE COUNTY**  
**REGIONAL CONSERVATION AUTHORITY**  
**(Amended November 1, 2010)**

**EXHIBIT "A"**

**OFFICIALS WHO MANAGE PUBLIC INVESTMENTS**

Authority Officials who manage public investments, as defined by 2 California Code of Regs. § 18701(b), are NOT subject to the Authority's Code, but are subject to the disclosure requirements of the Act. (Government Code Section 87200 et seq.) [Regs. § 18730(b)(3)] These positions are listed here for informational purposes only.

It has been determined that the positions listed below are officials who manage public investments<sup>1</sup> :

Members of the Board of Directors and their Alternates

Executive Director

Treasurer

Financial Consultant

---

<sup>1</sup> Individuals holding one of the above-listed positions may contact the FPPC for assistance or written advice regarding their filing obligations if they believe that their position has been categorized incorrectly. The FPPC makes the final determination whether a position is covered by § 87200.

## **DESIGNATED POSITIONS**

### **GOVERNED BY THE CONFLICT OF INTEREST CODE**

#### **DESIGNATED EMPLOYEES'** **TITLE OR FUNCTION**

#### **DISCLOSURE CATEGORIES** **ASSIGNED**

Administrative Services Manager	4
Administrative Services Officer	4
Controller	1, 2
Deputy Executive Director	1,2
Director of Administrative Services	4
Director of Land Acquisition	1, 2
Director of Reserve Management and Monitoring	1, 2
General Counsel	1, 2
Land Acquisition Analyst	1, 2
RCA Chief of Technical Information	5
RCA Information Technology Officer	5
Reserve Manager	5

#### **MEMBERS OF BOARDS,** **COMMITTEES & COMMISSIONS**

Executive Committee	4
Funding Coordination Committee	1,2
Reserve Management Oversight Committee	1,2

**DESIGNATED EMPLOYEES'**  
**TITLE OR FUNCTION**

**DISCLOSURE CATEGORIES**  
**ASSIGNED**

Consultant<sup>2</sup>

---

<sup>2</sup> Consultants shall be included in the list of Designated Employees and shall disclose pursuant to the broadest disclosure category in this Code subject to the following limitation:

The Executive Director may determine in writing that a particular consultant, although a “designated position” is hired to perform a range of duties that are limited in scope and thus is not required to fully comply with the disclosure requirements described in this Section. Such written determination shall include a description of this consultant’s duties and, based upon that description, a statement of the extent of disclosure requirements. The Executive Director’s determination is a public record and shall be retained for public inspection in the same manner and location as this Conflict of Interest Code.

## **EXHIBIT “B”**

### **DISCLOSURE CATEGORIES**

The disclosure categories listed below identify the types of investments, business entities, sources of income, including gifts, loans and travel payments, or real property which the Designated Employee must disclose for each disclosure category to which he or she is assigned.

Category 1. All investments and business positions and sources of income, including gifts, loans and travel payments, that are located in, that do business in, or own real property within the jurisdiction of the Authority.

Category 2: All interests in real property which is located in whole or in part within, or not more than two (2) miles outside, the jurisdiction of the Authority.

Category 3: All investments and business positions and sources of income, including gifts, loans and travel payments, that are engaged in land development, construction or the acquisition or sale of real property within the jurisdiction of the Authority.

Category 4: All investments and business positions and sources of income, including gifts, loans and travel payments, that provide services, supplies, materials, machinery, vehicles or equipment of a type utilized by the Authority.

Category 5: All investments and business positions and sources of income, including gifts, loans and travel payments, that provide services, supplies, materials, machinery, vehicles or equipment of a type utilized by Designated Employee's department, unit or division.

# **AGENDA ITEM NO. 7.1**

## **Attachment 2**

**Legislative Version to Show Changes  
made to Conflict of Interest Code**

LEGISLATIVE VERSION  
(SHOWS CHANGES MADE)

**CONFLICT OF INTEREST CODE**  
**OF THE**  
**WESTERN RIVERSIDE COUNTY**  
**REGIONAL CONSERVATION AUTHORITY**

The Political Reform Act (Government Code Section 81000, et seq.) requires state and local government agencies to adopt and promulgate conflict of interest codes. The Fair Political Practices Commission has adopted 2 Cal. Code of Regs. Section 18730 which contains the terms of a standard conflict of interest code which can be incorporated by reference in an agency's code. After public notice and hearing Section 18730 may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act. Therefore, the terms of 2 California Code of Regulations Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This regulation and the attached Appendix designating officials and employees and establishing disclosure categories, shall constitute the conflict of interest code of the Western Riverside County Regional Conservation Authority (the "Authority").

All Officials and Designated Employees required to submit a statement of economic interests shall file their statements with the Director of Administrative Services as the Authority's Filing Officer. The Filing Officer shall make and retain a copy of all statements filed by Members of the Board of Directors and their Alternates, the Executive Director and the Treasurer, and forward the originals of such statements to the Clerk of the Board of Supervisors. The Filing Officer shall retain the originals of the statements of all other Designated Employees. The Filing Officer will make all retained statements available for public inspection and reproduction during regular business hours (Gov. Code Section 81008).

**[with the incorporation and adoption of §18730 all other provisions are repealed]**

**APPENDIX**

**CONFLICT OF INTEREST CODE**

**OF THE**

**WESTERN RIVERSIDE COUNTY  
REGIONAL CONSERVATION AUTHORITY**

**(Amended December 10, 2008November 1, 2010)**

**EXHIBIT "A"**

**OFFICIALS WHO MANAGE PUBLIC INVESTMENTS**

Authority Officials who manage public investments, as defined by 2 California Code of Regs. § 18701(b), are NOT subject to the Authority's Code, but are subject to the disclosure requirements of the Act. (Government Code Section 87200 et seq.) [Regs. § 18730(b)(3)] These positions are listed here for informational purposes only.

It has been determined that the positions listed below are officials who manage public investments<sup>1</sup> :

Members of the Board of Directors and their Alternates

Executive Director

Treasurer

Financial Consultant

---

<sup>1</sup> Individuals holding one of the above-listed positions may contact the FPPC for assistance or written advice regarding their filing obligations if they believe that their position has been categorized incorrectly. The FPPC makes the final determination whether a position is covered by § 87200.

## DESIGNATED POSITIONS

### GOVERNED BY THE CONFLICT OF INTEREST CODE

<u>DESIGNATED EMPLOYEES'</u> <u>TITLE OR FUNCTION</u>	<u>DISCLOSURE CATEGORIES</u> <u>ASSIGNED</u>
Administrative <u>Services</u> Manager	<u>54</u>
Administrative Services Officer	<u>2, 54</u>
Controller	1, 2
Deputy Executive Director	1,2
Director of Administrative Services	<u>54</u>
Director of Land Acquisition	1, 2
Director of Reserve Management and Monitoring	<u>1, 2, 6</u>
General Counsel	1, 2
Land Acquisition Analyst	1, 2
RCA Chief of Technical Information	<u>65</u>
<u>RCA Information Technology Officer</u>	<u>5</u>
Reserve Manager	<u>65</u>
 <b><u>MEMBERS OF BOARDS,</u></b> <b><u>COMMITTEES &amp; COMMISSIONS</u></b>	
Executive Committee	<u>54</u>
Funding Coordination Committee	1,2
Reserve Management Oversight Committee	1,2

**DESIGNATED EMPLOYEES'**  
**TITLE OR FUNCTION**

**DISCLOSURE CATEGORIES**  
**ASSIGNED**

Consultant<sup>2</sup>

---

<sup>2</sup> Consultants shall be included in the list of Designated Employees and shall disclose pursuant to the broadest disclosure category in this Code subject to the following limitation:

The Executive Director may determine in writing that a particular consultant, although a “designated position” is hired to perform a range of duties that are limited in scope and thus is not required to fully comply with the disclosure requirements described in this Section. Such written determination shall include a description of this consultant’s duties and, based upon that description, a statement of the extent of disclosure requirements. The Executive Director’s determination is a public record and shall be retained for public inspection in the same manner and location as this Conflict of Interest Code.

## EXHIBIT "B"

### DISCLOSURE CATEGORIES

The disclosure categories listed below identify the types of investments, business entities, sources of income, including gifts, loans and travel payments, or real property which the Designated Employee must disclose for each disclosure category to which he or she is assigned.

Category 1. All investments and business positions ~~in business entities~~, and sources of income, including gifts, loans and travel payments, that are located in, that do business in, or own real property within the jurisdiction of the Authority.

Category 2: All interests in real property which is located in whole or in part within, or not more than two (2) miles outside, the jurisdiction of the Authority.

Category 3: All investments and business positions ~~in~~, and sources of income, including gifts, loans and travel payments, ~~from business entities~~ that are engaged in land development, construction or the acquisition or sale of real property within the jurisdiction of the Authority.

~~Category 4: All investments and business positions in, and sources of income from, business entities that are banking, savings and loan, or other financial institutions, that are located in, do business in, or own real property, within the jurisdiction of the Authority.~~

Category ~~5~~4: All investments and business positions ~~in~~, and sources of income, including gifts, loans and travel payments, ~~from business entities~~ that provide services, supplies, materials, machinery, vehicles or equipment of a type utilized by the Authority, ~~that are located in, do business in, or own real property, within the jurisdiction of the Authority.~~

Category ~~6~~5: All investments and business positions ~~in~~, and sources of income, including gifts, loans and travel payments, ~~from business entities~~ that provide services, supplies, materials, machinery, vehicles or equipment of a type utilized by Designated Employee's Ddepartment, ~~that are located in, do business in, or own real property, within the jurisdiction of the Authority, unit or division.~~

# **AGENDA ITEM NO. 7.1**

## **Attachment 3 Notice of Intention**

**NOTICE OF INTENTION TO AMEND THE  
APPENDIX OF THE CONFLICT OF INTEREST CODE OF THE  
WESTERN RIVERSIDE COUNTY  
REGIONAL CONSERVATION AUTHORITY**

NOTICE IS HEREBY GIVEN that the Board of Directors of the Western Riverside County Regional Conservation Authority (the "Authority") intends to amend the Authority's Conflict of Interest Code (the "Code") pursuant to Government Code Section 87306.

The Appendix designates those employees, members, officers, and consultants who make or participate in the making of decisions and are subject to disclosure requirements of the Authority's Code. The Authority's proposed amendment includes a new position that must be designated, revises disclosure categories, revises the title of an existing position, and adopts 2 Cal. Code of Regulations section 18730 as the provisions of the Code (FPPC Standard provisions).

The proposed amended Code will be considered by the Board of Directors on November 1, 2010, at 1:00 p.m. at the Riverside County Administrative Center, 1st Floor – Board Hearing Room, 4080 Lemon Street, Riverside, California. Any interested person may be present and comment at the public meeting or may submit written comments concerning the proposed amendment. Any comments or inquiries should be directed to the attention of Honey Bernas, Director of Administrative Services, Western Riverside County Regional Conservation Authority, Riverside Centre Building, 3403 10<sup>th</sup> Street, Suite 320, Riverside, CA 92501; (951) 955-9700. Written comments must be submitted no later than November 1, at 1:00 p.m.

The proposed amended Code may be reviewed at, and copies obtained from, the office of the Director of Administrative Services.

# **AGENDA ITEM NO. 7.2**

## **CLARIFICATION TO THE LAND ACQUISITION POLICIES**

*Regional Conservation Authority*

**CLARIFICATION TO THE LAND ACQUISITION POLICIES**

**Staff Contact:**

**Brian Beck  
Land Acquisition Analyst  
(951) 955-0039**

**Background:**

RCA staff has prepared a Clarification to the Land Acquisition Policies ("Clarification") to document the conformance with federal standards. The Clarification explicitly states that the existing process complies with the Federal Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970 (42 U.S.C. § 4600 et seq. and 49 C.F.R. part 24.), as applicable. The Clarification also authorizes staff to provide an appraisal summary to all sellers, both Willing Sellers and Habitat Evaluation and Acquisition Negotiation Strategy (HANS) acquisitions. The appraisal summary states the appraiser's opinion of value as well as the comparable sales used by the appraiser in assessing the value of a particular property. Legal Counsel has reviewed the Clarification.

**Executive Committee and Staff Recommendation:**

That the RCA Board of Directors approve the Clarification to the Land Acquisition Policies.

**Attachments:**

- 1) Redlined Copy of the Clarification to the Land Acquisition Policies
- 2) Clean Copy of the Clarification to the Land Acquisition Policies

# **AGENDA ITEM NO. 7.2**

## **Attachment 1**

### **Redlined Copy of the Clarification to the Land Acquisition Policies**

# LAND ACQUISITION POLICIES

## Article I. LAND ACQUISITION

### Section 1.01 General

- (a) Land acquisition is one of the most important activities of the RCA to reach the reserve goals of the Multiple Species Habitat Conservation Plan (Plan). It is important to maintain policies that are fair and reflect the highest level of integrity.
- (b) Land to be acquired to meet the Plan's goals generally will be secured from willing sellers, through direct donations, donations as a result of development, or by conservation easement. The acquisition process ~~generally will follow the procedure outlined on Exhibit 1.~~ is further described in Section 1.03 below.
- (c) Property proposed for acquisition will be evaluated for conservation value under the tenets of the Plan.
- (d) Each prospective acquisition will be reviewed for its relationship to existing reserve land, and its value to reserve habitat cores and linkages. The acquisition will also be evaluated for possible conflicts with planned infrastructure or land acquisitions which might be required for other public purposes. The RCA will make all reasonable efforts to work with the appropriate agency or special district which could be affected to insure the goals of the Plan can be attained.
- (e) The RCA will establish a Memorandum of Understanding for real property services with a qualified agency, organization, or individual to provide routine land acquisition processing at the direction of the Executive Director.
- (f) Opening of all negotiations and offers or agreements to purchase land will be authorized by the Executive Director.
- (g) All Land acquisition files will be retained and managed by the Executive Director or designated RCA staff.
- (h) The RCA Board will approve all purchases.

**Section 1.02 Authority to Sign Documents:** Only the Executive Director or Chairman of the RCA Board may sign purchase and conveyance documents. The Vice Chairman of the RCA Board may sign in the absence of the Executive Director or Chairman of the Board.

**Section 1.03 ~~Appraisal:~~** ~~It is the intent of the RCA to pay a fair price for property acquired to assemble the Reserve. However, the RCA also has an obligation to use~~

~~financial resources effectively and efficiently~~ Acquisition Process: RCA will comply with the Federal Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970 (42 U.S.C. § 4600 et seq. and 49 C.F.R. part 24.), as applicable. The following will apply to the ~~appraisal~~ acquisition process.—;

- (a) The RCA will order an independent appraisal of the property under consideration for purchase.
- (b) The RCA will use the appraised value to develop an offer to purchase the property under consideration.
- (c) A seller may provide a separate appraisal, but the seller's appraisal will not be used as a basis for the initial offer.
- (d) When the HANS/JPR review process identifies a property for "100% acquisition," land value differences between a seller's appraisal and the RCA appraisal will be resolved in accordance with Section 6 of the MSHCP.
- (e) An appraisal summary shall be prepared for all appraisals. The summary shall include the following information: the appraised value of the property, the date of value, the zoning and general plan designations of the property, and the comparable sales used by the appraiser in determining the value of the property.
- (f) Release of full appraisal and/or summary to seller:
  - (i) Full appraisals will not be released to the seller.
  - (ii) ~~HANS/JPR Acquisitions: A copy of the appraisal summary will be provided to the seller for all HANS/JPR acquisitions at the time that an offer is made.~~ (ii) ~~Other Acquisitions: A copy of the appraisal summary may be provided to the seller for other than HANS/JPR acquisitions but only after the purchase and sale agreement has been executed by all parties~~ upon request.

**Section 1.04 Confidentiality:** To ensure integrity throughout the process, it is important to maintain confidentiality when the RCA considers land purchases.

- (a) Any agreement for real property services with agencies, organizations or individuals who may provide real property services will contain the following provisions to insure confidentiality of prospective acquisitions:
  - i) Assigned staff will pursue only those acquisitions authorized by the RCA.
  - ii) Investigations, arrangements and transactions will be conducted by assigned staff only.

- iii) Property information and transactions shall be maintained under the control of the assigned staff.
  - iv) No RCA property information shall be placed in any general electronic or manual data inventory outside of the RCA except as necessary during the acquisition process of a property. All records will be delivered to the RCA at the close of escrow.
  - v) The assigned staff shall sign a confidentiality agreement.
- (b) The Director of Land Acquisition and Management will maintain the working file for all prospective purchases. The file or the information contained in the file will not be released to persons outside the RCA without the authorization of the Executive Director or Deputy Executive Director.

**Section 1.05 Indemnification:**

- (a) It is the policy of the RCA to secure the appropriate indemnification from future liability resulting from pre-existing conditions on an acquired property. However, the RCA recognizes that circumstances for each acquisition vary, and the indemnification provision may be modified to reflect the level of risk, the ownership history of the property, the result of the environmental hazards assessment, along with any subsequent testing or other factors.
- (b) A Phase 1 Environmental Hazards Assessment (EHA), in compliance with general real estate practices, will be conducted on each prospective land acquisition or land donation not more than three (3) months prior to the opening of escrow or not more than six (6) months prior to the close of escrow. At the discretion of the Executive Director a Phase I EHA may be required prior to acceptance of a conservation easement.
- (c) In the event that a Phase I EHA or visual inspection by the RCA of a prospective property indicates any potential hazard(s) the Executive Director may require a Phase II Environmental Hazard Assessment or additional information relating to the property history of use.
- (d) No conservation easement will be accepted unless the underlying fee title holder fully indemnifies the RCA.

## **Section 1.06 Land Acquisition Services**

The RCA recognizes that in some instances land conservation organizations and real estate professionals can facilitate the acquisition of selected properties or the completion of a specific transaction. The following policies will apply to the hiring of such individuals and organizations:

- (a) All organizations and persons proposing or solicited to provide acquisition services shall submit a statement of qualifications.
- (b) Organizations and individuals shall provide a proposal for specific services.
- (c) Selected organizations or individuals will sign a confidentiality agreement.
- (d) The Executive Director will issue a work order for the property (ies) of interest.
- (e) The RCA may provide compensation on a time and materials basis or offer a fixed percentage of the sale price or both.

## **Section 1.07 Policies and Procedures for Execution of IRS Form 8283 for Bargain Sales and Donations**

The Regional Conservation Authority (RCA) recognizes that it is appropriate to execute an IRS Form 8283 where the property owner has offered to either provide a bargain sale or to donate land to the RCA. The following policies and procedures are intended to establish basic guidelines for the execution and processing of a Form 8283.

- (a) The MSHCP provides that the RCA shall not pay more than fair market value for any property that it purchases.
- (b) Fair market value shall be determined by negotiation between RCA and the property owner provided that such fair market value is supported by one or more appraisals that are in compliance with the MSHCP and approved by the RCA. The appraisal may be prepared by an appraiser contracted by either the RCA or the property owner.
- (c) A Bargain Sale shall be defined to be the sale of property to the RCA for less than the appraisal that has been reviewed and approved by the RCA or an independent, qualified appraiser contracted by the RCA.
- (d) If a property owner elects to accept less than the RCA approved appraisal price, the transaction shall be eligible to be considered a Bargain Sale. The Bargain Sale and the execution of the Form 8283 must be documented in the Purchase and Sale Agreement and shall be subject to approval by the Board of Directors, prior to execution of the form.
- (e) If a property owner elects to donate land to the RCA, the execution of the Form 8283 must be documented in the donation agreement, prior to execution of the form.
- (f) All requests for execution of a Form 8283 shall be reviewed and approved by Legal Counsel prior to execution and may be submitted for either a Bargain Sale as defined in Section (c) above or for a donation of land.
- (g) Only the Chairman of the Board of Directors or the Executive Director or designee shall be authorized to execute a Form 8283, provided that the form has been processed consistent with these policies and procedures.
- (h) Staff should notify the property owner of this policy, in writing, at the time of presenting an offer to the property owner, and request a written acknowledgement from the property owner that they have been notified of the policy.

## Section 1.08 Policies and Procedures for Negotiation of HANS Acquisitions

The purpose of these policies and procedures is to establish general guidelines for the negotiation of HANS acquisitions, consistent with Section 6.1.1(B)(2)(b) of the Western Riverside County Multiple Species Habitat Conservation Plan ("MSHCP"). This Policy incorporates by reference the Clerical Changes made to page 6-6 of the MSHCP approved by the RCA Board on May 14, 2007. The following policy shall apply to properties where the County/City and the RCA have concurred with including all or a portion of the property into the MSHCP Conservation Area.

- (a) Initiation of the 120-Day Negotiation Period. The 120-day negotiation period provided under Section 6.1.1(B)(2) of the MSHCP shall commence:
  - i) Upon completion of the HANS/JPR process, and
  - ii) Concurrence by the RCA that all or a portion of the property is needed for inclusion within the MSHCP Conservation Area.
  
- (b) During the 120-Day Negotiation Period.
  - i) RCA will conduct an appraisal of the property.
  - ii) RCA and Property Owner, or its designee, will negotiate a purchase and sale agreement.
  - iii) Access to the property for appraisal purposes will be extended to the RCA through the HANS application, or other equivalent application.
  - iv) During this period, appraisal instructions shall be jointly prepared and agreed upon by the RCA and the Property Owner, or its designee. If such joint appraisal instructions are not agreed to by the parties within the first 20 days of the 120-day period, RCA may proceed to have an appraisal conducted in accordance with the "Uniform Appraisal Standards for Federal Land Acquisitions" and the "Uniform Standards of Professional Appraisal Practice" pursuant to 6.1.1 of the MSHCP.
  - v) The Property Owner, or its designee, may suspend the negotiating time period, provided that they have submitted a letter to the RCA and the County/city requesting that the negotiations be suspended. In such event, the negotiating time period will only resume upon receipt of a letter to the RCA and the County/city from the Property Owner, or its designee, requesting that the negotiations resume.
  
- (c) After the 120-Day Negotiation Period. If at the end of this 120-day period, agreement between the parties is not achieved, each party shall submit in writing the party's proposed resolution of terms. Further, the Property Owner, or its designee, along with the RCA and County/city, may agree to extend negotiations for an appropriate period of time if necessary. If either the Property Owner, or its designee, or the RCA and the County/city do not agree to extend negotiations, the Property Owner, or its designee, may (a) elect to

withdraw selling the property to the RCA, or (b) commence the Conflict Resolution Process as described in Section 6.1.1 of the MSHCP.

~~(d) This policy of procedures and timelines set forth herein are for guidance only, and deviations there from by the RCA shall not provide Property Owner, or its designee, with any damage rights or remedies against the RCA.~~

## CLERICAL CHANGES TO THE MSHCP

Pursuant to Section 20.1 of the MSHCP Implementing Agreement, RCA hereby makes the following clerical change to the first full paragraph of Page 6-6 of the MSHCP:

**b. Full Inclusion of Property** - In those instances where all of the property is needed for inclusion in the MSHCP Conservation Area, negotiations will focus on the acquisition of the property including establishing a purchase price and the application of other non-monetary incentives which may compensate the property owner and assist with the acquisition. In no event shall the purchase price exceed the fair market value of the property. Unless otherwise agreed to by the parties, the fair market value for the property shall be determined by an appraisal ordered by the County or the Cities and conducted in accordance with the "Uniform Appraisal Standards for Federal Land Acquisitions" and the "Uniform Standards of Professional Appraisal Practice." In the event of any conflict between these standards, the "Uniform Appraisal Standards for Federal Land Acquisitions" will control. Fee title of property to be conveyed may not be required. The type of ownership to be conveyed will be taken into consideration when conducting the appraisal. Appraisal instructions shall be jointly prepared and agreed upon by the *RCA, on behalf of the* County or Cities, and the property owner, *or if joint appraisal instructions are not agreed upon within the first 20 days of the 120 day negotiation period, RCA shall proceed to order an appraisal.* Appraisal instructions will direct appraisers not to consider the MSHCP Criteria Area as relevant to the appraisal.

**SUPPORTING DOCUMENTATION:** The proposed modification clarifies two aspects of the HANS process:

The existing text indicates that the County and Cities are responsible for preparing joint appraisal instructions. As indicated in the joint exercise of powers agreement, the RCA was created to assume the responsibilities of acquiring property on behalf of the County and Cities, where as here, all of the property is needed for inclusion in the MSHCP Conservation Area. This clerical modification simply confirms that action for purposes of this section.

RCA, Local Permittees or other stakeholder groups never intended to delay the 120-day negotiation process due to lack of agreement on joint appraisal instructions. Therefore, this clarifying instruction allows RCA to proceed to conduct its own appraisal should RCA and the property owner, or its designee, fail to achieve agreement on joint appraisal instructions.

Section 20.1 of the Implementing Agreement allows clerical changes to the MSHCP including corrections of typographical, grammatical, and similar editing errors that do not

change the intended meaning of the MSHCP. The Board of Directors finds RCA finds this editing revision does not change the intended meaning of the MSHCP.

Further, RCA hereby makes the following clerical change to the first full paragraph on Page 6-10 of the MSHCP:

Should a party opt to commence the Conflict Resolution Process as a result of the parties' inability to resolve differences concerning the valuation of property, a second appraisal shall be conducted, at the expense of the ~~property owner~~ **opting party**, in accordance with the "Uniform Appraisal Standards for Federal Land Acquisitions" and the "Uniform Standards of Professional Appraisal Practice." In the event of any conflict between these standards, the "Uniform Appraisal Standards for Federal Land Acquisitions" will control. Fee ownership of property to be conveyed may not be required. The type of ownership to be conveyed shall be taken into consideration when conducting the second appraisal.

**SUPPORTING DOCUMENTATION:** In most cases, a property owner will probably be the opting party who seeks to commence the Conflict Resolution Process. In a situation where the RCA opts to commence the Conflict Resolution Process, however, the intent of the MSHCP is to have the RCA pay for the second appraisal. Accordingly, this revision to the plan requires the opting party, whether the property owner or the RCA, to pay for the expense of a second appraisal.

Section 20.1 of the Implementing Agreement allows clerical changes to the MSHCP including corrections of typographical, grammatical, and similar editing errors that do not change the intended meaning of the MSHCP. The Board of Directors for the RCA finds this editing revision does not change the intended meaning of the MSHCP.

## **Section 1.09 Policies and Procedures Regarding Properties Encumbered by Property Assessments for Willing Seller, and Full and Partial HANS/JPR Acquisitions**

To assemble the Additional Reserve Lands, the Regional Conservation Authority (RCA) may acquire land that is encumbered by existing property assessments. This includes Property Owner Association fees as well as assessments by community service and facilities districts. These properties may be offered by “willing sellers” or as a HANS/JPR full or partial acquisition. The following policies and procedures are intended to establish basic guidelines for the acquisition of property encumbered by existing property assessments:

- (a) Staff will order a preliminary title report, with Schedule “B” exceptions and plotted easements, at the time of ordering an appraisal for a proposed acquisition.
- (b) Staff will contact the Assessor’s office and obtain a list of all known property assessments that may affect the property
- (c) Staff will identify the purpose and annual cost of any property assessments and estimate the cost to “buy out” the assessments.
- (d) Once staff has estimated the cost to buy out the assessments, staff will contact the legal entity responsible for the collection and administration of the assessments, to inquire as to whether or not the assessments can be bought out.
- (e) The following options should be considered when dealing with property assessments in the order of preference stated below:
  - i) Research if the RCA is exempt from payment of the property assessments.
  - ii) Negotiate with the Seller to eliminate encumbrances from title before close of escrow.
  - iii) Pursue a buy out of the property assessments by RCA prior to close of escrow.
  - (iv) Defer the buy out of the property assessments by RCA until after the close of escrow.
  - (v) RCA to pay the annual fee for the property assessments.
- (f) Staff reports should identify if the property for proposed acquisition is affected by existing property assessments and should list the annual cost and the estimated buy out cost for the Board’s consideration.
- (g) The owner should be responsible for paying the assessments current before transfer of the property to the RCA.

## **Section 1.10 Policies and Procedures Regarding Properties Encumbered by Property Assessments for Conveyances made Pursuant to Regulatory Permits such as 404 Permits**

The Regional Conservation Authority (RCA) may be requested to accept land that is encumbered by existing property assessments. This includes Property Owner Association fees as well as assessments by community service and facilities districts. The request will generally come from a property owner that has been required to convey property to the RCA as part of a regulatory permit condition, such as a 404 permit issued by the U.S. Army Corp of Engineers or a Streambed Alteration Permit issued by the California Department of Fish and Game. The following policies and procedures are intended to establish basic guidelines for the acceptance of property encumbered by property assessments:

- (a) Staff will order a preliminary title report, with Schedule "B" exceptions and plotted easements, at the time of ordering an appraisal for a proposed acquisition.
- (b) Staff will contact the Assessor's office and obtain a list of all known property assessments that may affect the property.
- (c) Staff will identify the purpose and annual cost of any property assessments and estimate the cost to buy out the assessments.
- (d) Once staff has estimated the cost to buy out the assessments, staff will contact the legal entity responsible for the collection and administration of the assessments, to inquire as to whether or not the assessments can be bought out.
- (e) The following options should be considered when dealing with property assessments in the order of preference stated below:
  - i) Research if the RCA is exempt from payment of the property assessments.
  - ii) RCA staff expects that in the majority of cases, the Donor will be required to buy out the property assessments prior to close of escrow.
  - iii) Although unusual, RCA staff may recommend to the Board that RCA should defer the buy out of the property assessments by RCA until after the close of escrow.
  - iv) Likewise, as a last resort, there may be situations where RCA staff may recommend to the Board that RCA should pay the annual fee for the property assessments.

- (f) Staff reports should identify if the property for proposed acquisition is affected by existing property assessments and should list the annual cost and the estimated buy out cost for the Board's consideration.
- (g) The owner should be responsible for paying the assessments current before transfer of the property to the RCA.

## **Section 1.11 Policies and Procedures Regarding Property Encumbered By Covenants, Conditions and Restrictions**

The Regional Conservation Authority (RCA) may acquire land that is affected by existing Covenants, Conditions and Restrictions (CCRs). The following policies and procedures are intended to establish basic guidelines for the acquisition of property affected by existing CCRs:

- (a) Staff will order a preliminary title report, with Schedule "B" exceptions and plotted easements, at the time of ordering an appraisal for a proposed acquisition.
- (b) Staff will review the nature of the CCRs.
- (c) Staff will identify if the CCRs potentially affect the use or maintenance of the property.
- (d) If staff has determined that the CCRs may potentially affect the use or maintenance of the property, staff will contact the legal entity responsible for the enforcement of the CCRs, to inquire as to whether or not the CCRs may be modified.
- (e) The following options should be considered when dealing with CCRs in the order of preference stated below:
  - i) Research if the RCA is exempt from the CCRs.
  - ii) Pursue a modification of the CCRs prior to close of escrow.
  - iii) Defer the modification of the CCRs until after the close of escrow.
  - iv) Comply with the terms and obligations of the CCRs (In many cases the CCR's will apply to property improvements only, and will have a negligible impact on the RCA).
  - v) If the CCR's provide for an assessment, staff will follow either policy section 1.09 or 1.10, as appropriate.
- (f) Staff reports should identify if the property for proposed acquisition is affected by existing CCRs and if the CCRs affect the use or maintenance of the property.

## **Section 1.12 Policy Regarding Non-MSHCP Land Donations:**

The RCA may agree to accept land donations outside of the Conservation Area or Criteria Area provided that:

- (a) Acceptance does not commit the RCA to a management or monitoring program that is different from that embodied in the MSHCP; and
- (b) An endowment is provided that fully covers the costs of long-term management and monitoring of the land and habitat.

## **Section 1.13 Effect of Land Acquisition Policies:**

(a) The Land Acquisition Policies set forth herein are for guidance only, and deviations there from by the RCA shall not provide a Seller, Property Owner, or its designee, with any damage rights or remedies against the RCA.

(b) If there is a conflict between the Land Acquisition Policies set forth herein and State or federal law, the conflicting State or federal law will control.

## LAND ACQUISITION POLICY SECTION REVISIONS

1. 03-06-06 Sections 1.01 through 1.06 approved; Agenda Item 8.2.\*
2. 12-04-06 Section 1.07 added; Agenda Item 8.2.
3. 05-14-07 Section 1.08 added; Agenda Item 9.2.
4. 05-14-07 Sections 1.09, 1.10 and 1.11 added; Agenda Item 9.1.
5. 09-10-07 Section 1.12 added; Agenda Item 8.3.
6. 10-01-07 Section 1.03 modified; Agenda Item 8.1.
7. 12-10-08 Section 1.07 modified; Agenda Item 7.1.
8. [11-01-10 Policy Clarification – Sections 1.01, 1.03, 1.08 modified, 1.13 added; Agenda Item XX.](#)

\*RCA Board excluded endowments from approval.

# **AGENDA ITEM NO. 7.2**

## **Attachment 2**

### **Clean Copy of the Clarification to the Land Acquisition Policies**

# LAND ACQUISITION POLICIES

## Article I. LAND ACQUISITION

### Section 1.01 General

- (a) Land acquisition is one of the most important activities of the RCA to reach the reserve goals of the Multiple Species Habitat Conservation Plan (Plan). It is important to maintain policies that are fair and reflect the highest level of integrity.
- (b) Land to be acquired to meet the Plan's goals generally will be secured from willing sellers, through direct donations, donations as a result of development, or by conservation easement. The acquisition process is further described in Section 1.03 below.
- (c) Property proposed for acquisition will be evaluated for conservation value under the tenets of the Plan.
- (d) Each prospective acquisition will be reviewed for its relationship to existing reserve land, and its value to reserve habitat cores and linkages. The acquisition will also be evaluated for possible conflicts with planned infrastructure or land acquisitions which might be required for other public purposes. The RCA will make all reasonable efforts to work with the appropriate agency or special district which could be affected to insure the goals of the Plan can be attained.
- (e) The RCA will establish a Memorandum of Understanding for real property services with a qualified agency, organization, or individual to provide routine land acquisition processing at the direction of the Executive Director.
- (f) Opening of all negotiations and offers or agreements to purchase land will be authorized by the Executive Director.
- (g) All Land acquisition files will be retained and managed by the Executive Director or designated RCA staff.
- (h) The RCA Board will approve all purchases.

**Section 1.02 Authority to Sign Documents:** Only the Executive Director or Chairman of the RCA Board may sign purchase and conveyance documents. The Vice Chairman of the RCA Board may sign in the absence of the Executive Director or Chairman of the Board.

**Section 1.03 Acquisition Process:** RCA will comply with the Federal Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970 (42 U.S.C. § 4600 et seq. and 49 C.F.R. part 24.), as applicable. The following will apply to the acquisition process:

- (a) The RCA will order an independent appraisal of the property under consideration for purchase.
- (b) The RCA will use the appraised value to develop an offer to purchase the property under consideration.
- (c) A seller may provide a separate appraisal, but the seller's appraisal will not be used as a basis for the initial offer.
- (d) When the HANS/JPR review process identifies a property for "100% acquisition," land value differences between a seller's appraisal and the RCA appraisal will be resolved in accordance with Section 6 of the MSHCP.
- (e) An appraisal summary shall be prepared for all appraisals. The summary shall include the following information: the appraised value of the property, the date of value, the zoning and general plan designations of the property, and the comparable sales used by the appraiser in determining the value of the property.
- (f) Release of full appraisal and/or summary to seller:
  - (i) Full appraisals will not be released to the seller.
  - (ii) A copy of the appraisal summary will be provided to the seller for all acquisitions upon request.

**Section 1.04 Confidentiality:** To ensure integrity throughout the process, it is important to maintain confidentiality when the RCA considers land purchases.

- (a) Any agreement for real property services with agencies, organizations or individuals who may provide real property services will contain the following provisions to insure confidentiality of prospective acquisitions:
  - i) Assigned staff will pursue only those acquisitions authorized by the RCA.
  - ii) Investigations, arrangements and transactions will be conducted by assigned staff only.
  - iii) Property information and transactions shall be maintained under the control of the assigned staff.
  - iv) No RCA property information shall be placed in any general electronic or manual data inventory outside of the RCA except as necessary during the acquisition process of a property. All records will be delivered to the RCA at the close of escrow.
  - v) The assigned staff shall sign a confidentiality agreement.

- (b) The Director of Land Acquisition and Management will maintain the working file for all prospective purchases. The file or the information contained in the file will not be released to persons outside the RCA without the authorization of the Executive Director or Deputy Executive Director.

**Section 1.05 Indemnification:**

- (a) It is the policy of the RCA to secure the appropriate indemnification from future liability resulting from pre-existing conditions on an acquired property. However, the RCA recognizes that circumstances for each acquisition vary, and the indemnification provision may be modified to reflect the level of risk, the ownership history of the property, the result of the environmental hazards assessment, along with any subsequent testing or other factors.
- (b) A Phase 1 Environmental Hazards Assessment (EHA), in compliance with general real estate practices, will be conducted on each prospective land acquisition or land donation not more than three (3) months prior to the opening of escrow or not more than six (6) months prior to the close of escrow. At the discretion of the Executive Director a Phase I EHA may be required prior to acceptance of a conservation easement.
- (c) In the event that a Phase I EHA or visual inspection by the RCA of a prospective property indicates any potential hazard(s) the Executive Director may require a Phase II Environmental Hazard Assessment or additional information relating to the property history of use.
- (d) No conservation easement will be accepted unless the underlying fee title holder fully indemnifies the RCA.

## **Section 1.06 Land Acquisition Services**

The RCA recognizes that in some instances land conservation organizations and real estate professionals can facilitate the acquisition of selected properties or the completion of a specific transaction. The following policies will apply to the hiring of such individuals and organizations:

- (a) All organizations and persons proposing or solicited to provide acquisition services shall submit a statement of qualifications.
- (b) Organizations and individuals shall provide a proposal for specific services.
- (c) Selected organizations or individuals will sign a confidentiality agreement.
- (d) The Executive Director will issue a work order for the property (ies) of interest.
- (e) The RCA may provide compensation on a time and materials basis or offer a fixed percentage of the sale price or both.

## **Section 1.07 Policies and Procedures for Execution of IRS Form 8283 for Bargain Sales and Donations**

The Regional Conservation Authority (RCA) recognizes that it is appropriate to execute an IRS Form 8283 where the property owner has offered to either provide a bargain sale or to donate land to the RCA. The following policies and procedures are intended to establish basic guidelines for the execution and processing of a Form 8283.

- (a) The MSHCP provides that the RCA shall not pay more than fair market value for any property that it purchases.
- (b) Fair market value shall be determined by negotiation between RCA and the property owner provided that such fair market value is supported by one or more appraisals that are in compliance with the MSHCP and approved by the RCA. The appraisal may be prepared by an appraiser contracted by either the RCA or the property owner.
- (c) A Bargain Sale shall be defined to be the sale of property to the RCA for less than the appraisal that has been reviewed and approved by the RCA or an independent, qualified appraiser contracted by the RCA.
- (d) If a property owner elects to accept less than the RCA approved appraisal price, the transaction shall be eligible to be considered a Bargain Sale. The Bargain Sale and the execution of the Form 8283 must be documented in the Purchase and Sale Agreement and shall be subject to approval by the Board of Directors, prior to execution of the form.
- (e) If a property owner elects to donate land to the RCA, the execution of the Form 8283 must be documented in the donation agreement, prior to execution of the form.
- (f) All requests for execution of a Form 8283 shall be reviewed and approved by Legal Counsel prior to execution and may be submitted for either a Bargain Sale as defined in Section (c) above or for a donation of land.
- (g) Only the Chairman of the Board of Directors or the Executive Director or designee shall be authorized to execute a Form 8283, provided that the form has been processed consistent with these policies and procedures.
- (h) Staff should notify the property owner of this policy, in writing, at the time of presenting an offer to the property owner, and request a written acknowledgement from the property owner that they have been notified of the policy.

## Section 1.08 Policies and Procedures for Negotiation of HANS Acquisitions

The purpose of these policies and procedures is to establish general guidelines for the negotiation of HANS acquisitions, consistent with Section 6.1.1(B)(2)(b) of the Western Riverside County Multiple Species Habitat Conservation Plan (“MSHCP”). This Policy incorporates by reference the Clerical Changes made to page 6-6 of the MSHCP approved by the RCA Board on May 14, 2007. The following policy shall apply to properties where the County/City and the RCA have concurred with including all or a portion of the property into the MSHCP Conservation Area.

- (a) Initiation of the 120-Day Negotiation Period. The 120-day negotiation period provided under Section 6.1.1(B)(2) of the MSHCP shall commence:
  - i) Upon completion of the HANS/JPR process, and
  - ii) Concurrence by the RCA that all or a portion of the property is needed for inclusion within the MSHCP Conservation Area.
  
- (b) During the 120-Day Negotiation Period.
  - i) RCA will conduct an appraisal of the property.
  - ii) RCA and Property Owner, or its designee, will negotiate a purchase and sale agreement.
  - iii) Access to the property for appraisal purposes will be extended to the RCA through the HANS application, or other equivalent application.
  - iv) During this period, appraisal instructions shall be jointly prepared and agreed upon by the RCA and the Property Owner, or its designee. If such joint appraisal instructions are not agreed to by the parties within the first 20 days of the 120-day period, RCA may proceed to have an appraisal conducted in accordance with the “Uniform Appraisal Standards for Federal Land Acquisitions” and the “Uniform Standards of Professional Appraisal Practice” pursuant to 6.1.1 of the MSHCP.
  - v) The Property Owner, or its designee, may suspend the negotiating time period, provided that they have submitted a letter to the RCA and the County/city requesting that the negotiations be suspended. In such event, the negotiating time period will only resume upon receipt of a letter to the RCA and the County/city from the Property Owner, or its designee, requesting that the negotiations resume.
  
- (c) After the 120-Day Negotiation Period. If at the end of this 120-day period, agreement between the parties is not achieved, each party shall submit in writing the party’s proposed resolution of terms. Further, the Property Owner, or its designee, along with the RCA and County/city, may agree to extend negotiations for an appropriate period of time if necessary. If either the Property Owner, or its designee, or the RCA and the County/city do not agree to extend negotiations, the Property Owner, or its designee, may (a) elect to

withdraw selling the property to the RCA, or (b) commence the Conflict Resolution Process as described in Section 6.1.1 of the MSHCP.

## CLERICAL CHANGES TO THE MSHCP

Pursuant to Section 20.1 of the MSHCP Implementing Agreement, RCA hereby makes the following clerical change to the first full paragraph of Page 6-6 of the MSHCP:

**b. Full Inclusion of Property** - In those instances where all of the property is needed for inclusion in the MSHCP Conservation Area, negotiations will focus on the acquisition of the property including establishing a purchase price and the application of other non-monetary incentives which may compensate the property owner and assist with the acquisition. In no event shall the purchase price exceed the fair market value of the property. Unless otherwise agreed to by the parties, the fair market value for the property shall be determined by an appraisal ordered by the County or the Cities and conducted in accordance with the “Uniform Appraisal Standards for Federal Land Acquisitions” and the “Uniform Standards of Professional Appraisal Practice.” In the event of any conflict between these standards, the “Uniform Appraisal Standards for Federal Land Acquisitions” will control. Fee title of property to be conveyed may not be required. The type of ownership to be conveyed will be taken into consideration when conducting the appraisal. Appraisal instructions shall be jointly prepared and agreed upon by the *RCA, on behalf of the* County or Cities, and the property owner, *or if joint appraisal instructions are not agreed upon within the first 20 days of the 120 day negotiation period, RCA shall proceed to order an appraisal.* Appraisal instructions will direct appraisers not to consider the MSHCP Criteria Area as relevant to the appraisal.

**SUPPORTING DOCUMENTATION:** The proposed modification clarifies two aspects of the HANS process:

The existing text indicates that the County and Cities are responsible for preparing joint appraisal instructions. As indicated in the joint exercise of powers agreement, the RCA was created to assume the responsibilities of acquiring property on behalf of the County and Cities, where as here, all of the property is needed for inclusion in the MSHCP Conservation Area. This clerical modification simply confirms that action for purposes of this section.

RCA, Local Permittees or other stakeholder groups never intended to delay the 120-day negotiation process due to lack of agreement on joint appraisal instructions. Therefore, this clarifying instruction allows RCA to proceed to conduct its own appraisal should RCA and the property owner, or its designee, fail to achieve agreement on joint appraisal instructions.

Section 20.1 of the Implementing Agreement allows clerical changes to the MSHCP including corrections of typographical, grammatical, and similar editing errors that do not

change the intended meaning of the MSHCP. The Board of Directors finds RCA finds this editing revision does not change the intended meaning of the MSHCP.

Further, RCA hereby makes the following clerical change to the first full paragraph on Page 6-10 of the MSHCP:

Should a party opt to commence the Conflict Resolution Process as a result of the parties' inability to resolve differences concerning the valuation of property, a second appraisal shall be conducted, at the expense of the ~~property owner~~ **opting party**, in accordance with the "Uniform Appraisal Standards for Federal Land Acquisitions" and the "Uniform Standards of Professional Appraisal Practice." In the event of any conflict between these standards, the "Uniform Appraisal Standards for Federal Land Acquisitions" will control. Fee ownership of property to be conveyed may not be required. The type of ownership to be conveyed shall be taken into consideration when conducting the second appraisal.

**SUPPORTING DOCUMENTATION:** In most cases, a property owner will probably be the opting party who seeks to commence the Conflict Resolution Process. In a situation where the RCA opts to commence the Conflict Resolution Process, however, the intent of the MSHCP is to have the RCA pay for the second appraisal. Accordingly, this revision to the plan requires the opting party, whether the property owner or the RCA, to pay for the expense of a second appraisal.

Section 20.1 of the Implementing Agreement allows clerical changes to the MSHCP including corrections of typographical, grammatical, and similar editing errors that do not change the intended meaning of the MSHCP. The Board of Directors for the RCA finds this editing revision does not change the intended meaning of the MSHCP.

## **Section 1.09 Policies and Procedures Regarding Properties Encumbered by Property Assessments for Willing Seller, and Full and Partial HANS/JPR Acquisitions**

To assemble the Additional Reserve Lands, the Regional Conservation Authority (RCA) may acquire land that is encumbered by existing property assessments. This includes Property Owner Association fees as well as assessments by community service and facilities districts. These properties may be offered by “willing sellers” or as a HANS/JPR full or partial acquisition. The following policies and procedures are intended to establish basic guidelines for the acquisition of property encumbered by existing property assessments:

- (a) Staff will order a preliminary title report, with Schedule “B” exceptions and plotted easements, at the time of ordering an appraisal for a proposed acquisition.
- (b) Staff will contact the Assessor’s office and obtain a list of all known property assessments that may affect the property
- (c) Staff will identify the purpose and annual cost of any property assessments and estimate the cost to “buy out” the assessments.
- (d) Once staff has estimated the cost to buy out the assessments, staff will contact the legal entity responsible for the collection and administration of the assessments, to inquire as to whether or not the assessments can be bought out.
- (e) The following options should be considered when dealing with property assessments in the order of preference stated below:
  - i) Research if the RCA is exempt from payment of the property assessments.
  - ii) Negotiate with the Seller to eliminate encumbrances from title before close of escrow.
  - iii) Pursue a buy out of the property assessments by RCA prior to close of escrow.
  - (iv) Defer the buy out of the property assessments by RCA until after the close of escrow.
  - (v) RCA to pay the annual fee for the property assessments.
- (f) Staff reports should identify if the property for proposed acquisition is affected by existing property assessments and should list the annual cost and the estimated buy out cost for the Board’s consideration.
- (g) The owner should be responsible for paying the assessments current before transfer of the property to the RCA.

## **Section 1.10 Policies and Procedures Regarding Properties Encumbered by Property Assessments for Conveyances made Pursuant to Regulatory Permits such as 404 Permits**

The Regional Conservation Authority (RCA) may be requested to accept land that is encumbered by existing property assessments. This includes Property Owner Association fees as well as assessments by community service and facilities districts. The request will generally come from a property owner that has been required to convey property to the RCA as part of a regulatory permit condition, such as a 404 permit issued by the U.S. Army Corp of Engineers or a Streambed Alteration Permit issued by the California Department of Fish and Game. The following policies and procedures are intended to establish basic guidelines for the acceptance of property encumbered by property assessments:

- (a) Staff will order a preliminary title report, with Schedule "B" exceptions and plotted easements, at the time of ordering an appraisal for a proposed acquisition.
- (b) Staff will contact the Assessor's office and obtain a list of all known property assessments that may affect the property.
- (c) Staff will identify the purpose and annual cost of any property assessments and estimate the cost to buy out the assessments.
- (d) Once staff has estimated the cost to buy out the assessments, staff will contact the legal entity responsible for the collection and administration of the assessments, to inquire as to whether or not the assessments can be bought out.
- (e) The following options should be considered when dealing with property assessments in the order of preference stated below:
  - i) Research if the RCA is exempt from payment of the property assessments.
  - ii) RCA staff expects that in the majority of cases, the Donor will be required to buy out the property assessments prior to close of escrow.
  - iii) Although unusual, RCA staff may recommend to the Board that RCA should defer the buy out of the property assessments by RCA until after the close of escrow.
  - iv) Likewise, as a last resort, there may be situations where RCA staff may recommend to the Board that RCA should pay the annual fee for the property assessments.

- (f) Staff reports should identify if the property for proposed acquisition is affected by existing property assessments and should list the annual cost and the estimated buy out cost for the Board's consideration.
- (g) The owner should be responsible for paying the assessments current before transfer of the property to the RCA.

## **Section 1.11 Policies and Procedures Regarding Property Encumbered By Covenants, Conditions and Restrictions**

The Regional Conservation Authority (RCA) may acquire land that is affected by existing Covenants, Conditions and Restrictions (CCRs). The following policies and procedures are intended to establish basic guidelines for the acquisition of property affected by existing CCRs:

- (a) Staff will order a preliminary title report, with Schedule “B” exceptions and plotted easements, at the time of ordering an appraisal for a proposed acquisition.
- (b) Staff will review the nature of the CCRs.
- (c) Staff will identify if the CCRs potentially affect the use or maintenance of the property.
- (d) If staff has determined that the CCRs may potentially affect the use or maintenance of the property, staff will contact the legal entity responsible for the enforcement of the CCRs, to inquire as to whether or not the CCRs may be modified.
- (e) The following options should be considered when dealing with CCRs in the order of preference stated below:
  - i) Research if the RCA is exempt from the CCRs.
  - ii) Pursue a modification of the CCRs prior to close of escrow.
  - iii) Defer the modification of the CCRs until after the close of escrow.
  - iv) Comply with the terms and obligations of the CCRs (In many cases the CCR’s will apply to property improvements only, and will have a negligible impact on the RCA).
  - v) If the CCR’s provide for an assessment, staff will follow either policy section 1.09 or 1.10, as appropriate.
- (f) Staff reports should identify if the property for proposed acquisition is affected by existing CCRs and if the CCRs affect the use or maintenance of the property.

### **Section 1.12 Policy Regarding Non-MSHCP Land Donations:**

The RCA may agree to accept land donations outside of the Conservation Area or Criteria Area provided that:

- (a) Acceptance does not commit the RCA to a management or monitoring program that is different from that embodied in the MSHCP; and
- (b) An endowment is provided that fully covers the costs of long-term management and monitoring of the land and habitat.

### **Section 1.13 Effect of Land Acquisition Policies:**

- (a) The Land Acquisition Policies set forth herein are for guidance only, and deviations there from by the RCA shall not provide a Seller, Property Owner, or its designee, with any damage rights or remedies against the RCA.
- (b) If there is a conflict between the Land Acquisition Policies set forth herein and State or federal law, the conflicting State or federal law will control.

## LAND ACQUISITION POLICY SECTION REVISIONS

1. 03-06-06 Sections 1.01 through 1.06 approved; Agenda Item 8.2.\*
2. 12-04-06 Section 1.07 added; Agenda Item 8.2.
3. 05-14-07 Section 1.08 added; Agenda Item 9.2.
4. 05-14-07 Sections 1.09, 1.10 and 1.11 added; Agenda Item 9.1.
5. 09-10-07 Section 1.12 added; Agenda Item 8.3.
6. 10-01-07 Section 1.03 modified; Agenda Item 8.1.
7. 12-10-08 Section 1.07 modified; Agenda Item 7.1.
8. 11-01-10 Policy Clarification – Sections 1.01, 1.03, 1.08 modified, 1.13 added; Agenda Item XX.

\*RCA Board excluded endowments from approval.