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MINUTES

Monday, March 5, 2012

1. CALL TO ORDER

The meeting of the Western Riverside County Regional Conservation Authority was called to order by Chairman Jim Hyatt at 12:34 p.m. in the Board Room of the Riverside County Administrative Center, 4080 Lemon Street, Riverside, California 92501.

2. PLEDGE OF ALLEGIANCE

Linda Krupa led the RCA Board Members and those present in a flag salute.

3. ROLL CALL

Board Members Present

Kevin Bash
Ben Benoit
Roger Berg
Randy Bonner
Maryann Edwards
Thomas Fuhrman
Mike Gardner
Jim Hyatt
Linda Krupa
John Machisic
Melissa Melendez
Scott Miller
Eugene Montanez
Adam Rush
Karen Spiegel
Jeff Stone
John Tavaglione
Ella Zanowic

Board Members Absent

Bill Batey
John Benoit
Verne Lauritzen
Alan Long
Mark Yarbrough

4. PUBLIC COMMENTS

1. Bud Sprezney of Cerritos, California, said that last month he presented a figure depicting a simple 200 foot wide wildlife linkage smoothly passing through arbitrarily sized land parcels and reviewed presentation. He said that linkages will not be simple as they must bulge to encompass adjacent green areas; unique wildlife and plant enclaves; springs, streams, and pools and other conservation features that are

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critically needed by wildlife using the linkages. He presented a graphic example showing two bulges with the second bulge on an ancillary linkage path to the right of the main linkage path. In this, he noted that the ancillary linkage path allows a conservation feature moderately away from the main path to be incorporated without the purchase of land (approximately 230 acres) in between. Fortunately, with well thought out guidelines and consistent implementation, the cost-optimized, smooth perimeter linkages as shown in Figure 1 could assure cost-effective success. He concluded that in order for the MSHCP to be a viable conservation program, RCA must proactively provide for the wildlife's survival needs, which include being able to avoid contact with humans, avoid being cornered or ambushed by predators, and having ample access to water. (A written copy of Mr. Spresney's comments were submitted to RCA.)

2. Susan Nash, representing Friends of the Northern San Jacinto Valley, commented on the takings lawsuit. She submitted a public records request and a written response for the following: 1) Relevant language why the Coachella Valley MSHCP is immune from takings lawsuit while the Western Riverside County MSHCP is vulnerable to it; and, 2) List of all takings lawsuits filed against RCA and the outcome of the lawsuits, i.e., payments, dismissals. (Ms. Nash submitted a letter requesting the above mentioned records to RCA.)

5. BOARD MEMBER ANNOUNCEMENTS

There were no Board Member announcements.

6. ADDITIONS/REVISIONS

Agenda Item 14.1, RIC 1100822 Friends of Riverside's Hills, was pulled from Closed Session.

7. APPROVAL OF MINUTES

M/S/C (STONE/EDWARDS) to approve the February 6, 2012 minutes of the RCA Board of Directors meeting, as submitted.

8. PRESENTATION OF SERVICE AWARD

At this time, Chairman Hyatt and Charlie Landry, Executive Director, presented a certificate of appreciation to Theresa Ramos, Accounting Technician II, to commemorate her twenty-five years of service with the County of Riverside and with the RCA. They stated that RCA is fortunate to have her as a member of the staff and expressed their thanks for her valuable contribution to the organization.

9. CONSENT CALENDAR

M/S/C (STONE/MONTANEZ) to approve the Consent Calendar item:

9.1 FISCAL YEAR 2011-12 SECOND QUARTER FINANCIAL REPORT

Receive and file the Fiscal Year 2011-12 Second Quarter Financial Report.

10. CONSULTANT REPORT – DOUGLAS P. WHEELER FISCAL YEAR 2012 SECOND QUARTER REPORT

Douglas Wheeler reported on activities regarding the development and introduction of SB 826 (Feinstein)/HR 1907 (Calvert/Issa), a loan program for RCA and qualifying HCPs to acquire reserves. He reviewed meetings held with legislative and federal officials to inform and make them aware of the efforts and concept of the MSHCP in order to receive their endorsement. He noted the difficulty of introducing legislation that would authorize expenditure of new funds is subject to an offset requirement which means that no new expenditure could be proposed even in the form of a loan because there is a cost to administer the program unless another program could be reduced in an equal amount. He reviewed the process taken to include the loan program as a rider to the transportation bill as an amendment to the Transportation Infrastructure Finance and Innovation Act (TIFIA) Program. He clarified that the amendment is to expand the TIFIA Program to make more funds available and to make multiple purposes authorized for loans under the program. Therefore, authorized loans for habitat would not compete with current, existing uses of TIFIA funds. Mr. Wheeler stated that the amendment has received strong support from Senator Dianne Feinstein and noted her preference for a bipartisan support. Therefore, Senator Kay Hutchinson was approached to support the proposed amendment. It will be known by the end of the day whether the amendment is proposed, and by the end of the month whether there will be a broad expansion of the transportation authorization. If the strategy of using the transportation bill as a vehicle does not come about, efforts for SB 826/HR 1907 will continue. Mr. Wheeler thanked the Board for the opportunity to work on this program.

Eugene Montanez reported on his recent trip to Washington, D.C., which he and Doug Wheeler met with Secretary of Transportation Ray LaHood. They offered assistance to develop TIFIA language, if the Senator and Congress requested. He also reported on a meeting he attended with Tom Mullen when Senator Feinstein was visiting the Inland Empire area. He noted the importance of continuing to work with Senator Feinstein and her staff.

Jeff Stone thanked Eugene Montanez for quickly adjusting his schedule to travel to Washington, D.C. He also thanked Doug Wheeler for his leadership in arranging the various meetings in the recent months. He stated we have had tremendous bipartisan support to fund a federal plan. He stated he believes we have one of the most advanced, if not the most advanced, Multiple Species Habitat Conservation Plans in the Country and believes there is a vested interested with the federal government making sure we are

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successful. Utilizing TIFIA as a mechanism to receive low cost loans will enable RCA to buy property much less expensively they could years ago. RCA has already acquired approximately 45,000 acres of the 153,000 acres required.

Jeff Stone asked if there is any indication what the Administration's position is on the proposal and expressed concern regarding the possibility of the bill being amended. He hopes that the President recognizes the importance that habitat plans have on the delivery of infrastructure. Doug Wheeler advised that what can be done within the Administration, short of having talked to the President or his staff, has been done. Mr. Wheeler said he believes that the President's reaction will depend a lot on how the bill emerges and whether it is a large, complicated, long or short duration bill. Both Lahood and Deputy Secretary of Interior David Hayes indicated that the Administration is in support of the effort. He explained that they will not commit the Administration to either signing a bill or to support one until they are called to do so by Congress.

Eugene Montanez suggested another meeting with Senator Feinstein and her staff to ensure the effort stays on track.

John Tavaglione thanked Doug Wheeler for his efforts and recalled the challenging task over the years and past efforts of Doug Wheeler, David Hayes, and Tom Mullen towards the development and implementation of the MSHCP on behalf of the transportation projects and the Integrated Plan. It was not known how the loan program concept would be received, and he was pleased to see that it appears that persistence is paying off.

Scott Miller thanked Mr. Wheeler for his efforts and expressed his interest in tracking the activities on the loan program proposal, and Doug Wheeler stated that the RCA Board Members may e-mail him if they wish. Additionally, he provides a quarterly report to the RCA.

In response to Adam Rush's question if there is any concern about placing additional complexity on or potentially damaging the progress and efforts on the TIFIA proposal, Eugene Montanez stated that was RCA's first concerns due to the importance of these funds to Riverside County and RCTC. They discussed this matter with both the Senator's office and the Secretary's office. They made it very clear that some of that funding will not go to what it has traditionally gone to. If the language had not been changed, the money would not go to RCTC or the MSHCP. Changing the language would enable us to compete for those dollars. They are looking for ways to expand the TIFIA program.

Charlie Landry added that when RCA met with the Secretary of Transportation, they also supported RCTC's request for the second \$25 million for the TIFIA loan. The Secretary and his staff are aware that this a major concern for the region, RCTC, Riverside County and all of the proponents for RCTC.

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Bob Buster asked about the ability to make a case that this would expedite nationally significant transportation improvements such as goods movement, corridors, and high speed rail which would have a bearing now and into the future.

Doug Wheeler said that an inventory of plans around the country was made which might be eligible and none are as ambitious or as well implemented as the Riverside plan. There are two or three others that could make use of substantial funding, but they tend to coincide with important large infrastructure projects. The language that the Secretary of Transportation provided included a provision added by the Federal Highway Administration that funds for habitat acquisition would only be available in support of projects which themselves are eligible for TIFIA.

On behalf of the RCA Board, Chairman Hyatt thanked Doug Wheeler for attending the meeting and his efforts to assist the RCA.

11. EXECUTIVE DIRECTOR'S REPORT

Charlie Landry reported on the following items:

11.1 California Department of Fish and Game and San Jacinto Duck Ponds Update

For background information, a review of the history of the conservation easement that is at issue was made. The subject area is 89 acres within the San Jacinto Wildlife area of 92 acre parcel owned by the Ramona Duck Club. There was work within the three acre envelope that was conditioned by the County of Riverside to provide a conservation easement to the RCA or other conservation entity on the remaining 89 acres. The three acres would be the active use area and the RCA would be the beneficiary of the remaining 89 acres. RCA was notified by the California Department of Fish and Game (CDFG) that they would accept the conservation easement from the Ramona Duck Club and that they would also fund the purchase of the easement on the remaining 89 acres (\$358,000) through the State Wildlife Conservation Board. At that time, RCA supported the conservation easement since a number of sensitive and listed plants would be covered and conserved. The conservation easement was provided to the CDFG to manage. However, unknown to RCA, earlier in 2008, there was a Section 7 consultation done by the U.S. Fish and Wildlife Service (USFWS) on the same area to allow the duck ponds to be refurbished and the listed plants could be avoided. A \$138,000 grant was provided to the Duck Club as a result of the Section 7 consultation. In September 2011, grading was reported in the area. RCA contacted the County of Riverside to look into the matter and they indicated that a grading permit was not issued. County Code Enforcement did not pursue the matter as a violation since CDFG stated that the reconstruction of the duck ponds was covered under the conservation easement agreement with the Duck Club. However, the conservation easement agreement only consisted of maintenance activities; not reconstruction of the duck pond. The recent newspaper article

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referenced investigation by the Army Corp of Engineers to determine if there was a violation by placing fills within waters of the U.S. The outcome of the investigation is not known as this time. RCA staff has followed up with CDFG on this matter to express concern and displeasure on how the MSHCP was implemented. This was also discussed with USFWS and RCA expressed their opinion that RCA should know about all of the activities pertaining to Section 7 consultations within the Plan Area. In the future, staff will not recommend support of conservation easements that do not contribute to conservation within the reserve. He noted that this particular conservation easement did not come to the RCA.

At this time, Chairman Hyatt called on public comments.

1. Susan Nash, representing the Friends of Northern San Jacinto Valley, presented her concerns regarding the apparent destruction of endangered plant values in the Ramona Duck Club conservation easement due to the disregard of mitigation measures and management requirements provided in the Section 7 consultation were disregarded by the Ramona Duck Club. She asked if this has occurred on other RCA conservation lands, if the County of Riverside is considering revoking CUP 3464, and why a Riverside County Code Enforcement Officer was told not to enforce the grading permit ordinance. Ms. Nash stated that the inaction on the part of the Wildlife Agencies and the RCA is a gross dereliction of responsibility and should be grounds for revocation of the MSHCP permit. She requested that RCA provide a response to her questions at a future Board meeting. (A copy of Ms. Nash's letter was submitted to the RCA.)

Roger Berg is concerned about a potential violation of the Clean Water Act and the grading that occurred. He stated that RCA should be involved to see what kind of enforcement action that the Army Corp of Engineers may be taking. In addition to the lack of permits, he is concerned there might be contamination of groundwater and potential impact to habitat downstream in the water which may create an ecological imbalance. He suggested that future easement agreements include language that non-compliance of all federal and state laws will result in the termination of the easement agreement.

Tom Fuhrman reviewed the purpose of the duck club and noted that the State Game Commissioner controls the sports activity and number of ducks hunted. The duck club wanted to make a safer environment by putting the blinds further apart to accommodate the increased population of ducks, which increases the sports activity for more hunters. The duck club is trying to increase the facility to accommodate the sportsman.

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11.2 RCA Board Workshop

RCA's workshop will be held in the City of Temecula's Conference Center on Thursday, April 19, 2012, at 9:00 a.m.

11.3 Washington, D.C., Trip Update

This item was discussed under Agenda Item No. 10.

12. LAND ACQUISITION UPDATE

Brian Beck, Land Acquisition Analyst, reported that the RCA has added 41 acres to the reserve bringing the total reserve land to approximately 44,984 acres.

13. ITEMS FOR NEXT MEETING

There were no items suggested for the next RCA Board meeting.

Steve DeBaun, Legal Counsel – Best, Best & Krieger, announced the Closed Session item. Chairman Hyatt convened the meeting to Closed Session. At this time, Roger Berg left the meeting.

14. CLOSED SESSION ITEMS

- 14.1 CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**
Pursuant to Subdivision (a) of Government Code Section 54956.9
- **RIC 532973 Empire Homes**

After Closed Session, Chairman Hyatt reconvened the meeting. Steve DeBaun announced that with regard to Closed Session Item, RIC 532973 – Empire Homes, the RCA Board of Directors authorized legal counsel to pursue MSHCP fees at issue in the Empire Homes lawsuit and to pursue other outstanding MSHCP fees.

15. ADJOURNMENT

There being no other items before the RCA Board of Directors, Chairman Hyatt adjourned the meeting. The next meeting of the Western Riverside County Regional Conservation Authority Board of Directors is scheduled for Monday, April 2, 2012, at 12:30 p.m. at the County of Riverside Administrative Center, Board Room, 4080 Lemon Street, Riverside, California.

Respectfully submitted,



Honey Bernas
Clerk of the Board