

AGENDA ITEM NO. 7

MINUTES



MEETING MINUTES

1. CALL TO ORDER

The meeting of the Western Riverside County Regional Conservation Authority was called to order by Chairman Marion Ashley at 12:34 p.m. on Monday, May 6, 2013, in the Board Room of the Riverside County Administrative Center, 4080 Lemon Street, Riverside, California, 92501.

2. PLEDGE OF ALLEGIANCE

Chairman Ashley led the RCA Board Members and meeting attendees in a flag salute.

3. ROLL CALL

Board Members Present

Marion Ashley, *Riverside County District 5*
Kevin Bash, *City of Norco*
Ben Benoit, *City of Wildomar*
Roger Berg, *City of Beaumont*
Tim Brown, *City of Canyon Lake*
Maryann Edwards, *City of Temecula**
Debbie Franklin, *City of Banning*
Mike Gardner, *City of Riverside*
Tom Fuhrman, *City of Menifee*
Jim Hyatt, *City of Calimesa*
Kevin Jeffries, *Riverside County District 1*
Andrew Kotyuk, *City of San Jacinto*
Linda Krupa, *City of Hemet*
Natasha Johnson, *City of Lake Elsinore*
Verne Lauritzen, *City of Jurupa Valley**
Jesse Molina, *City of Moreno Valley*
Eugene Montanez, *City of Corona*
Harry Ramos, *City of Murrieta**
Adam Rush, *City of Eastvale*
Jeff Stone, *Riverside County District 3**

Board Members Absent

John Benoit, *Riverside County District 4*
Mark Yarbrough, *City of Perris*

*Arrived after start of meeting

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4. PUBLIC COMMENTS

- 1) Max Miller of Murrieta, California, requested Chairman Ashley to allow him to yield his time Maryann Shushan Miller.

On behalf of the RCA Board, Chairman Ashley granted Mr. Miller's request and called on Maryann Shushan Miller.

- 2) Maryann Shushan Miller, 35520 Los Alamos Road, Murrieta, California, informed the RCA Board that she is undergoing a HANS JPR process. She detailed her experience in undergoing the HANS/JPR process which started with paying a \$1500 deposit fee. Billings for services rendered to perform the JPR are deducted from the deposit. She questioned whether there is oversight or standard review of the billing against the deposit which may result with no end result. Additionally, there is no limit or justification for the number or type of consultants that RCA may use during the JPR process. The applicant is only provided a summary report but not the full appraisal of their property. When the deposit is depleted, the HANS/JPR process stops until more funds are deposited by the applicant resulting in additional delays for timely completion of the negotiation process. Additional funds must be deposited and if not paid timely the property is released for further MSHCP requirement. As a small property owner, she posed the following questions to the RCA Board: 1) Whether her HANS/JPR application has been presented to the Executive Committee and, if so, when and what was the determination; 2) Date of RCA Board action approving the amendment to the MSHCP regarding the HANS/JPR flat fee to a deposit fee against billing and she requested a copy of that document approving this amendment to the Plan; 3) The estimated costs to complete negotiation billed against the HANS/JPR deposit fee; 4) When the process will be completed; and, 5) Who determines the hourly billing rates and under what authority? *(Note: A copy of Ms. Miller's presentation was submitted and distributed to the RCA Board and is on file with the RCA.)*

Chairman Ashley informed Ms. Miller that her time has expired. With the time limitation, he directed the Executive Director to provide answers to Ms. Miller's questions as well as to RCA Board members.

Tim Brown noted that Ms. Miller's handout indicated a list of reference documents that Ms. Miller has mentioned. He asked if the RCA Board Members would be provided copies of those documents.

Naty Kopenhaver indicated that Ms. Miller has submitted a copy of the reference documents and, as requested, staff will provide them to RCA Board Members.

5. BOARD MEMBER ANNOUNCEMENTS

There were no Board Member announcements.

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6. ADDITIONS/REVISIONS

There were no additions/revisions to the agenda.

7. APPROVAL OF MINUTES

M/S/C (Stone/Hyatt) to approve the minutes of the February 4, 2013 and March 11, 2013 meetings of the RCA Board of Directors, as submitted.

Abstain: BBenoit and Kotyuk

8. FISCAL YEAR 2013 THIRD QUARTER CONSULTANT REPORTS FOR DOUGLAS P. WHEELER, HOGAN LOVELLS US LLP, AND DAVID KENNETT, CAPITAL ALLIANCE CONSULTING

Dave Kennett, Capitol Alliance Consulting – RCA Consultant, presented an update on three federal issues: 1) Section 6 funding for habitat acquisition - (the Section 6 dollars are the only source of federal funds that are available to acquire land for RCA's agreement with the Federal Government); 2) Critical Habitat Designations (CHD) for the MSHCP; and 3) Loan/Loan Guarantee legislation. He reviewed the meetings held and efforts made so that Section 6 funding is not impacted by the ongoing budgetary problems. A re-education campaign effort with the congressional members and staff was conducted to remind them that funds are needed by local communities in order to comply with the Endangered Species Act as well as the benefits to infrastructure and economy. He reviewed the Section 6 level of funding from FY 2010 through FY 2013. The President's FY 2014 proposal for Section 6 is \$56 million and \$28 million automatic funding that would be from the Land and Water Conservation Fund. The \$28 million will not happen this year, as there is no appetite in the Federal Government to increase mandatory funding. This is a good sign as it shows that there is an increased commitment from the Administration, U.S. Department of Fish & Wildlife (USFW), and Department of Interior to see this program through.

Under the CHD on MSHCP land, the MSHCP says that basically if a good job is being done, there should be no CHDs on the MSHCP area. Using the slide, he reviewed the list of species for which CHD has been designed on MSHCP lands. While some of the designations are legitimate, as they were pre-MSHCP, others were not. The USFWS has been working in good faith to deal with every one of these species. On December 3, 2012, the USFWS issued a final CHD for the Riverside Fairy Shrimp, citing the MSHCP with no critical habitat designated in Riverside County. On April 15, 2013, they published a final rule with no CHD for Munz's onion or San Jacinto Valley crownscale for western Riverside County, stating that the Western Riverside County MSHCP provides significant conservation and management of habitat essential to the conservation of species. Excluding MSHCP land will help preserve the partnerships developed with the local jurisdiction. As a result, the only remaining issue is with the Santa Ana sucker. Mr. Kennett stated that he is working with a number of local water agencies on RCA's behalf on a dual process to address this critical habitat designation issue. One is a lawsuit,

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and the other is to propose a new MSHCP in San Bernardino which, by extension, would cover the RCA. Fifteen agencies have sued the federal government seeking that the CHD for the Santa Ana Sucker revert to the 2005 rule that did not include reaches of the Santa Ana River south of Seven Oaks Dam. The claims were rejected at the District Court level. Briefs are due on appeal to the Ninth Circuit on June 3, 2013. He noted that the effort is fully funded up through potential Supreme Court action. Best, Best & Krieger is handling the appeal.

In response to Chairman Ashley's question regarding the timing of the process, Dave Kennett stated that they expect that this will be before the Supreme Court next session.

Charlie Landry, Executive Director, clarified that RCA projects are not impacted by the CHD for the Santa Ana Sucker. However, efforts will be made to make certain that future projects will not be impacted.

Mr. Kennett said meetings in Washington, D.C. were held a couple of weeks ago with water agencies, congressional representatives as well as the two Senators, in an effort to have them sign on to support the plaintiffs. At the same time, it was an opportunity to educate them, especially the new Congressional members, on RCA's issues. With regard to San Bernardino, they have never been great HCP's supporters in the past, but at this time, they are considering an MSHCP as their projects are going to be delayed beyond any delays RCA has experienced.

At this time, Doug Wheeler of Hogan Lovells US, LLP, joined the RCA Board meeting via Skype. He said that the principal effort in Washington, D.C., is securing an approval of the Congress for legislation that would enable the RCA to achieve loans and loan guarantees for purposes of habitat acquisitions. He related the support and efforts of Congressman Ken Calvert and Senator Dianne Feinstein to reintroduce bills to create loan and loan guarantee program which will authorize a program to enable the Riverside MSHCP and others like it around the country to secure low interest loans for purposes of acquiring habitat at a time when real estate prices are low, thereby, enabling RCA to complete the program for a lesser cost. The Infrastructure Facilitation and Habitat Conservation Act provides for a ten-year pilot program of loans and loan guarantees to be administered jointly by Secretaries of the Treasury and Interior. The bill was drafted to reduce the funding "score" and to enhance prospects for enactment in a conservative fiscal environment.

Mr. Wheeler noted that it appears the Senate Public Works Committee will soon have success in seeking and obtaining of the WIFIA for 2013. Because RCA was able to make its case with Republicans and Democrats on the WIFIA committee, the bill will include a provision that provides for loans and loan guarantees in connection with water development projects. The bill authorizes loans and loan guarantees for water projects on the TIFIA (transportation) model. This program is called the "Water Infrastructure Finance Innovation Act" or "WIFIA." WIFIA loans can be used to buy land for HCPs that further water infrastructure projects. It is believed that inclusion of RCAs language in the bill will

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set a marker for it being added to other bills such as "TIFIA," it's transportation counterpart. He is encouraged to have the support of Congressman Calvert and Senator Feinstein to reintroduce the legislation again in the 113th Congress. They worked on reaching and obtaining bi-partisan support and support from interested stakeholders across the spectrum. Today, he learned that the Senate bill that includes the RCA provision will face its first test in the Senate tonight. If it passes, then the bill will move to the floor for enactment. The process requires a counterpart House bill, which is presently being developed. If the Senate bill passes with the loan and loan guarantee provisions, a model in the House will follow. They will continue to work on the TIFIA bill, which is due for re-authorization next year, to make sure the regulations will be beneficial to RCA's program which will enable a federal loan guarantee for purposes of habitat.

Andrew Kotyuk stated that the WRDA bill they are presenting in the Senate appears to be a multi-year bill for six or eight years. He asked if Congressman Calvert, in the House legislation, will propose certain proration for each year versus a lump sum for the full six years. Dave Kennett responded that this WRDA is a six year bill and that the House will deliberate on the bill later this year.

Tim Brown asked for clarification on the federal funding projects for FY 2013. He asked why the proposed budget reflects approximately \$2.9 million in federal funding and the charts presented in this presentation show \$14.1 and \$45.7 million. He stated that the cost for attorney fees is roughly stable, but questioned the sufficiency of the proposed budget if RCA anticipates taking this to the Supreme Court, which can be costly. Charlie Landry said that the number presented by Dave Kennett is the nationwide total. For FY2013, RCA was granted \$4 million in federal funds, plus an additional \$1.7 million in State grants. For the next year's budget, staff estimates federal funding expenditures of \$2.9 million, and this is included in the budget. He stated that RCA is not formally a part of the Supreme Court hearing, and RCA will not be funding expenses for the trial.

Michelle Ouellette, Best, Best & Krieger – RCA Legal Counsel, said that the Board took action several months ago to authorize the filing of amicus brief on behalf of the RCA, but it will not be participating in the remainder of the litigation.

The RCA Board determined to receive and file the Fiscal Year 2013 Third Quarter Consultant Reports for Douglas Wheeler of Hogan Lovells US LLP and David Kennett of Capital Alliance Consulting.

9. CONSENT CALENDAR

At this time, Jim Hyatt requested to pull Agenda Item 9.2, *Western Riverside County MSHCP Local Development Mitigation Fee Collection and Civic/Infrastructure Contribution Reports for February and March 2013*, was made.

M/S/C (Hyatt/Franklin) to approve the following Consent Calendar item:

Abstain: Brown

9.1 FISCAL YEAR 2012-13 THIRD QUARTER CONSULTANT REPORTS

Receive and file the Fiscal Year 2012-13 Third Quarter Consultant Reports.

At this time the RCA Board discussed Agenda Item 9.2.

9.2 WESTERN RIVERSIDE COUNTY MULTIPLE SPECIES HABITAT CONSERVATION PLAN (MSHCP) LOCAL DEVELOPMENT MITIGATION FEE (LDMF) COLLECTION AND CIVIC/INFRASTRUCTURE CONTRIBUTION REPORTS FOR FEBRUARY AND MARCH 2013

Jim Hyatt noted that the staff report attachment showed that Lake Elsinore had issued a number of residential permits but it does not show that amounts received. He also asked the procedure on collecting the fees in one month and remitting them on the following month(s).

Honey Bernas, Director of Administrative Services, said that most often there were Development Agreements in place pre MSHCP. With regard to remitting fees, the policy is to have agencies submit them monthly, but there is no penalty if remitted within 90 days.

M/S/C (HYATT/FRANKLIN) to receive and file the Western Riverside County MSHCP LDMF Collection and Civic/Infrastructure Contribution Reports for February and March 2013.

10. FEE CREDIT AND DONATION AGREEMENTS WITH KB HOME COASTAL, INC.

Marion Ashley, Kevin Jeffries, and Jesse Molina recused themselves and stepped out of the meeting and from discussion of this item due to conflict of interests.

At this time, Jim Hyatt presided over the RCA Board meeting.

Brian Beck, Land Acquisition Analyst, introduced Chris Mounts, consultant to KB Home Coastal, Inc. who is available to answer any questions. He continued and said that KB owns approximately 315 acres north of San Jacinto Avenue, east of Dunlap Drive in the unincorporated community of Lakeview/Nuevo. The property is located just east and adjacent to the City of Perris and is within the San Jacinto River linkage area. This will contribute to RCA's reserve assembly goals. KB proposes to donate the land to the RCA in exchange for a fee credit toward their MSHCP fees on future projects that KB plans to build throughout the Plan area. The proposed fee credit amount is \$3,150,000. This is based on two appraisals – one prepared by an appraiser hired by RCA (\$2,625,000 or roughly \$8,300 per acre) and the other prepared by an appraiser by KB (\$3,850,000 or roughly \$12,200 per acre). Under the terms of the fee credit agreement, KB would be allowed to assign the credits to a third party; however, the third party may not assign the

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credits. RCA will establish and maintain a ledger to track the fee credit balance. Fee credits are not active until such time as KB donates the subject property to RCA. If approved, escrow is estimated to close in a week.

Shellie Milne asked if the fee credit and donation agreement is also available to small property owners.

Charlie Landry said that this is the first RCA fee credit and donation agreement and each request will be reviewed on a case-by-case basis, including those for small property owners.

In response to Tim Brown's question if the river area shown on the map is within the subject boundary, Brian Beck said that the river area shown is owned by the Riverside County Flood District.

Tim Brown asked if RCA has jurisdiction over the land owned by the Flood District, and Charlie Landry said that this area is the San Jacinto River and not within the subject area so there will not be a conflict.

Tom Fuhrman questioned how this will work with KB's future development project. Charlie Landry said the once they start a project within the subject area, KB will notify RCA. RCA will verify the number of lots in conjunction with the city/county and RCA will verify the fee and the credits will be transferred toward the project. At the same time, the credits will be deducted from the books. The credit fee credit is \$3,150,000.

Tim Brown asked for a description of the topography of the subject area and asked if the property is subject to 10/20 year flooding. Brian Beck said that it is a flat property. He believes that the property is located in a flood plain, but he will research it and provide Mr. Brown the information.

Tim Brown commented that if the property is located in a flood plain, then the value will be less. He also asked what the property will be used for. Brian Beck said that both appraisers evaluated the existing site conditions such as topography and flooding, as well as the comparable sales factor. The property will be used for conservation.

Jim Hyatt asked if any species have been identified in the area and Charlie Landry said that there were number of plants identified in the area. The land is identified as a major linkage.

Laurie Correa, Director of Reserve Management and Monitoring, said that since the area was once a farm, there are probably few species except on the edges of the property and on the Flood Control portion through the center. A fair amount of it is flood plain, the goal for the Santa Jacinto River is acquiring areas of alkali flood plain that support specific plants and animals that do not occur anywhere else. It is hoped that at least some of those native populations will return on their own.

Tom Fuhrman asked if this is a popular duck hunting area to which Laurie Correa said no.

M/S/C (Stone/BBenoit) to:

- 1) Approve a Local Development Mitigation Fee Credit Agreement between the Western Riverside County Regional Conservation Authority and KB Home Coastal, Inc.;***
- 2) Approve a Donation Agreement between the Western Riverside County Regional Conservation Authority and KB Home Coastal, Inc.; and***
- 3) Authorize the Executive Director to execute said agreements on behalf of the Authority.***

Nay: Brown

At this time, Chairman Ashley, Kevin Jeffries and Jesse Molina returned to the meeting.

11. BIOLOGICAL MONITORING WORK PLAN AND COST ESTIMATE FOR FISCAL YEAR 2013-14

Laurie Correa presented the Biological Monitoring Work Plan and Cost Estimate for Fiscal Year 2013-14. She stated that Section 6.6 of the Plan requires that every year the Biological Monitoring Program submit a work plan for review and that the Board adopt the budget for the work plan. Biological Monitoring is required for all 146 species that are covered under the Plan. Each species requires surveys at least every eight years, a small number every year, a slightly larger number every three to five years. The surveys rotate over the years. As of this year, RCA has completed the inventory of all 146 species and are now restarting the rotation of the survey monitoring. She then reviewed the FY 2013-14 monitoring efforts for: 1) Invertebrates – Quino checkerspot butterfly, Delhi sands flower-loving fly, fairy shrimp; 2) Birds – Coastal sage scrub bird survey and nest searching, riparian bird survey and nest searching, raptor reproduction monitoring, northern harrier survey, tricolored blackbird survey, burrowing owl monitoring; 3) Amphibians and Reptiles – targeted area searches, amphibian stream surveys, western spadefoot survey; 4) Mammals – Stephens' kangaroo rat trapping; carnivore surveys; and, 5) Plants – Rare plant survey, riparian vegetation monitoring, vegetation surveys.

She continued and said the proposed budget for Fiscal Year 2013-14 is \$969,499, which is approximately a \$30,000 reduction from last fiscal year. This amount does not include the State's contribution to the Monitoring Program, which consists of one full-time staff member and one vehicle. State support terminated in June of 2012 with the end of the State Wildlife Grant. RCA has replaced most of the State vehicles; however, one additional vehicle is needed. The proposed budget anticipates replacing the antiquated State computer system and requires rewiring the building for the new computer systems. RCA is meeting its obligations and has assumed full support of the program, which is approximately at half of the staff level that the Plan envisioned.

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Jeff Stone remarked on Riverside County's efforts and amount of funding spent to comply with the Endangered Species Act of which the MSHCP is part of the Integrated Plan that was developed, and at the same time will expedite infrastructure projects. The federal/state government is supposed to be a partner in this effort but it does not appear that they have participated. Riverside County is one-third (25 year Plan) of the way through funding the Plan to acquire 153,000 acres. After acquiring that land, it is hoped that an annuity funding could be formed to continue monitoring efforts to comply with the Plan. He has been a strong proponent of the RCA, but has always been critical of the federal government's involvement in the success of this Plan. He directed RCA staff to reach out to the federal government to solicit their participation as their part to comply with the Endangered Species Act. He noted that the MSHCP is a model for a successful habitat plan in the country of which the federal government will point to but they need to take ownership. It cannot continue to be an unfunded mandate on this organization, the developers who are paying fees, and small property owners. There needs to be some investment from the federal government, and RCA should start demanding it.

Laurie Correa stated that the State's obligation for the Monitoring Program was for the first eight years. They did not fund 100% of the program, but they did fund most of the program up until the end of last year. There was no federal component for the Monitoring Program. The Plan specifically says that that is a local obligation.

Charlie Landry stated that RCA staff will be happy to bring that message forward to the federal government. Management and Monitoring efforts are currently being performed at minimum levels.

Harry Ramos asked for actual surveys and answers to the questions that were asked in the surveys, i.e., speeding process to develop on the lands, success in raising the number of species on the land. He also asked the consequence if the Quino checkerspot butterfly leaves the area.

Laurie Correa stated that all of the survey reports that have been completed are on the RCA website in the library section under the Monitoring Program tab. They are also included in the Annual Report of which a CD is provided to all Permittees, as well as other agencies. RCA is about one-third of the way through land acquisition so some of the issues with species objectives are related to the fact reserves are not complete.

Maryann Edwards cited the unfunded mandates that local agencies live with every single day and asked how they are tied to grants and RCA's requests for funding and if compliance is tied into grants.

Laurie Correa responded that RCA's primary source of grant funding is for acquisitions, not Operations which include Management and Monitoring. RCA received a State Local Assistance Grant for approximately \$200 thousand to update the vegetation mapping for

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the Plan, which is nearly seven years old. There may be other grant opportunities, but not in the millions of dollars for Operations.

Maryann Edwards stated that since RCA is basically the enforcement arm of the Federal Endangered Species Act through the MSHCP and a model program that, as Supervisor Stone suggested, RCA should be able to strike up a chord to help other jurisdictions form other HCPs.

Shellie Milne stated that with regards to Supervisor Stone noting for RCA staff take the message back to the federal government to participate in funding, she said that she got involved in politics because she was tired of the talking and wanted some action. She asked if there are other ways rather than just sending a message to the federal government.

Charlie Landry stated that the federal/state agencies likely response is that RCA signed a contract, which is the Implementing Agreement, which requires RCA to be responsible for Management and Monitoring efforts. RCA can solicit federal support for the monitoring program, but it is long-term. Unfortunately, RCA must meet its obligations in the interim.

Roger Berg stated that his participation has been since the inception of the Plan, the goal of which was to find a way to facilitate development and streamline the process by building the reserve. RCA is acquiring properties previously farmed and once the property is not farmed, it reverts back to its natural habitat and species will move back in. This is happening at the Prado Basin, where there was once a small population of least bell's vireo and now there is now a large population of those birds. The Biological Monitoring Program's job is to see how well the Plan is doing. Once the Plan works, it will be self-preserving and development is facilitated. He stated that the Plan works with a lot of funds being spent on Biological Monitoring. RCA may be able to get some funding for management and monitoring, but it is not an unfunded mandate as it is Riverside County's mandate. This program is for the County, the Cities, and its citizens to facilitate development, create jobs, and enable new homes to be built. He stated that the Board should defer to the Executive Director. It is fact that RCA needs more funding for Operation to make the Plan successful and RCA staff is doing a great job in what they have to work with. Biological Monitoring is necessary. At the same time, the Wildlife Agencies agree that the Plan is working.

Kevin Jeffries stated that while he appreciated the optimism of his colleague about what this Plan is and is not, when the state and federal government insist that if Riverside County does not play by the rules they are going to shut down all of land use, it is an unfunded mandate no matter how it is interpreted. An agreement was signed and, thereby, our obligation. When they determined that the Santa Ana sucker was not part of it, he believes that they lifted the rules. He will cast a no vote as a token of opposition and thinks that RCA needs to push back and say enough is enough. He said that in order to be a true partner, they need to participate. It may not happen, but it will not be known if we can be successful unless we push back.

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In response to Kevin Jeffries question about the process, whereby a Cajalco property owner pays a \$1,500 fee to the County to assess presence of a burrowing owl and once a report is submitted, another \$1,500 fee to the RCA must be paid to determine if the report to the County report was adequate. He also wanted to know at what point is it determined that there are enough burrowing owls with all of the monitoring efforts being made and if is close to the goal.

Laurie Correa responded that the burrowing owl population is not as close to where we would like it to be. Regarding the \$1,500 fee, if another \$1,500 fee is paid to the RCA, it is because the property is within the Criteria Cell and is subject to Joint Project Review. RCA does not review any projects or any surveys that are outside of Criteria Cells. Some survey reports are still required outside of Criteria Cells which are handled by the County and Cities. If it requires mitigation, the Wildlife Agencies will be involved. For the burrowing owl, there needs to be at least five pairs in at least five Cores and at least 120 pairs. RCA has approximately 30 pairs in one core. Relocations were done in the spring into a second core - Lake Mathews/Estelle Mountain - which the RCHCA manages. They received a Partner's grant to install artificial burrows. RCHCA manages it for grassland because of the Stephens Kangaroo Rat Habitat Conservation Plan. It is hoped that our second core requirements will be met, and then move on to the other cores. The third will probably be the Santa Ana River at Hidden Valley, then San Jacinto Wildlife area, and then Hemet. Relocations and monitoring that have been done in the southwest part of the County at El Sol, Johnson Ranch, and Lake Skinner has been very successful. Continuous breeding pairs are present with other reserve managers managing land for burrowing owls, which consists of mostly grazing and sometimes prescribed burns and the owl population has spread out into other reserves. It is hopeful that the same thing will happen on other cores. It is a species that can be managed in the right location.

Eugene Montanez commented that one of the areas where there was some success since an agreement was signed, is the receipt of federal Section 6 dollars. RCA should point to the success of the HCP and the MSHCP's success in monitoring when applying for future grant funds. RCA may have more success by getting RCA's score card up on future grants.

Laurie Correa stated that she believes RCA would always win that score card as she is not aware of another HCP that has the monitoring standards that Riverside County Plan and the Coachella Plan has. RCA has fairly high monitoring standards with the Plan.

Jim Hyatt expressed that he will vote for this and he gave kudos to RCA staff. His apprehension is not so much from the state or federal government but if RCA is not carrying out its responsibility and a project comes along indicating that monitoring efforts are not being carried out may result in lawsuits to prove otherwise. He added that RCA staff is doing a great job in keeping the costs down.

Jeff Stone clarified and said that he is not advocating not supporting the biological monitoring efforts as it is its obligation under the contract. His argument, however, is that this effort is to comply with a federal act and that the federal government also has

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obligations. There are a hundred species of animals and plants that go extinct every single day in areas that are not even inhabited by human beings. There are many factors that create these extinctions such as climate change issues, natural disasters and fires in the State of California. He does not believe it was the human beings caused the extinction of dinosaurs on this planet but by natural disasters and is divinely planned. RCA has taken on the responsibility of acquiring a significant amount of land to get the master permit. He suggested that perhaps surveys should be performed to lower the threshold. He believes that once land is acquired on behalf of the federal government to propagate species and animals, it is not his belief that it should be RCA or taxpayers' responsibility from that point on to continue expensive surveys to make certain that habitat is acquired and regenerated for species that are potentially going extinct. If anything, it should be a shared responsibility with the federal government. The Authority's concerns that monitoring is very expensive and impedes the ability to acquire more land should be brought to their attention. It is redundant to continually monitor year after year with properties being set aside for habitat. He is going to support this, but RCA needs to reach out to our federal and state partners to let them know of their need to participate in the monitoring, especially if the economic conditions does not recover or recovers at a slower rate. He noted that every time acreage is added will result in a budget increase and reach a threshold where contributions will cease which puts local agencies in jeopardy. It will be a balancing act.

M/S/C (HYATT/TAVAGLIONE) to:

- 1) Approve the Biological Monitoring Work Plan and Cost Estimate for Fiscal Year 2013-14; and***
- 2) Direct staff to convey the message regarding funding participation to the federal government, as discussed.***

Nay: Brown, Jeffries, Johnson

12. RECURRING CONTRACTS FOR FISCAL YEAR 2013-14

Honey Bernas, Director of Administrative Services, stated that historically since 2004, RCA has maintained a small staff and contracted with various agencies with specialized expertise in various fields. This year, in light of anticipated revenue projections, staff and the Executive Committee recommended a slight increase of 1% overall with recurring contracts. Most of the contracts contain quarterly reporting requirements and a cancellation clause ranging from seven (7) to 30 days. She then reviewed the proposed recurring contracts and the type of service provided by: 1) David Kennett, Capitol Alliance Consulting; 2) Dudek; 3) Geographics; 4) Naty Kopenhaver; 5) Riverside-Corona Resource Conservation District; 6) Santa Ana Watershed Association; 7) Thomas B. Mullen; 8) Vavrinek, Trine, Day & Co, LLP; and, 9) Doug Wheeler. The exceptions to the seven (7) day termination clause are the lease agreement and the Wheeler contract.

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Mike Gardner stated his conflict of interest regarding the Mullen contract and Steve DeBaun, Best, Best and Krieger – Legal Counsel, advised that the RCA Board could consider the item separately. The Board determined to discuss and take action on the Mullen contract as a separate item.

Natasha Johnson asked a procedural question regarding taking action on the recurring contracts prior to adoption of the budget and Honey Bernas said that the proposed budget includes services being provided rather than specific consultant services. Charlie Landry added that RCA has traditionally asked for the Board's approval on the recurring contracts prior to adopting the budget.

Shellie Milne asked why there is a need for three separate lobbyists. Charlie Landry noted activities underway and advised that the focus of each lobbyist differs. David Kennett is RCA's governmental relations specialist and focuses particularly on Committee staff members, which is important to RCA. Doug Wheeler, whose background is in natural resources, is working on the loan program, particularly legislation. His relationships with the environmental community, as well as with the Administration, are invaluable to RCA. They work together on some issues; however, they are not similar and they have different areas of expertise. He noted that the Mullen contract is only for reimbursement of expenses.

Tim Brown stated that the staff report does not include enough information for him to make an objective analysis as to whether the cost is fair and reasonable, i.e., value, hourly rate, etc. He asked who the Executive Committee making the recommendation is, which is the only legislative entity that reviewed the item. He said not enough information was provided, and therefore, he could not possibly vote on this item.

Charlie Landry said that this item was reviewed and approved by the Executive Committee and costs are fair and reasonable.

Honey Bernas stated that the contract amount and service provided is included in the staff report. Since 2008, the recurring contract amount has been reduced by approximately 40%, and Charlie Landry noted that because of end of funding from State, RCA has to pick up the additional monitoring cost.

Jim Hyatt commented on the level of detailed review that the Executive Committee performs when items were presented to them which is not the same degree when an item is before the RCA Board. He said that had the same questions when he started as an RCA Board Member. He felt that the process is working and has worked well.

In response to Tom Fuhrman, if any of the contracts have reached the contract cost limit, Honey Bernas responded that none of the contracts have gone over budget and some are under budget. For instance Dudek will be 10% under budget and the proposed budget is proposed to be reduced by 10%. For the audit firm, it is reduced by 2%, in that the Authority does not anticipate a single audit. Charlie Landry said that the budget for the Nexus Study is 25% under budget from last year.

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Kevin Jeffries stated that perhaps in the future more information could be added to address the concerns of RCA Board members. As a member of the Executive Committee, details of the contract were provided. He had some issues with expenditures for branding and public information service. Overall, the rest of the contracts are necessary in order for RCA to achieve its goals.

Jeff Stone stated that most of the RCA Board members sit on other agency boards and the common denominator of most of the governmental agencies is to have an Executive Committee that reviews items in detail in order to allow them to make informed decisions. By no means, being a member on these Executive Committees gives any one member a monopoly on the information. He said that if there are questions on an item, RCA staff should be contacted, and they will be glad to provide additional information.

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

- 1) Approve the recurring contracts, except for the Kennett and Mullen contracts, for Fiscal Year 2013-14; and***
- 2) Authorize the Chairman, pursuant to legal counsel review and approval, to execute said agreements on behalf of the Authority.***

Nay: Brown, Fuhrman

At this time, Mike Gardner and John Tavaglione recused themselves from discussion and taking action on the Kennett and Mullen contracts and left the room.

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

- 1) Approve the recurring contracts for Kennett and Mullen, for Fiscal Year 2013-14; and***
- 2) Authorize the Chairman, pursuant to legal counsel review and approval, to execute said agreements on behalf of the Authority.***

Nay: Brown

Mike Gardner and John Tavaglione returned to the meeting.

13. RESOLUTION NO. 13-003, A RESOLUTION OF THE BOARD OF DIRECTORS OF THE WESTERN RIVERSIDE COUNTY REGIONAL CONSERVATION AUTHORITY ADOPTING THE FISCAL YEAR 2013-14 OPERATING AND CAPITAL BUDGET

Honey Bernas said that the budget presentation has been reformatted for ease of review and transparency purposes. The proposed FY 2013-14 Operating and Capital Budget reflects a 14% increase in revenues over last year's budget. It is projecting a 6% increase

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in MSHCP Development Mitigation Fees which is based on current trends and building projections from member agencies. Donations reflect an anticipated decrease of approximately 27%. The budget includes \$2.8 million in federal grant funds for land acquisitions, and state match funds of \$1.2 million. An additional \$156,000 in State Local Assistance Grant funds has been budgeted for the Management and Monitoring Program. Tipping Fees are being decreased by 20% based on current year reduction in the out-of-county landfill tonnage disposal. RCA will continue to aggressively pursue additional funding and contributions. Budget appropriations have been increased by 24% due to an increase in land acquisitions (\$4.3 million or 43% over the prior year) which include four committed land acquisitions, seven potential properties funded with Federal and State funds, as well as a contingency for other potential properties. Salaries and Benefits reflect a 1% decrease which is due to a reduction in retirement payoffs offset by a slight 2% cost of living increase which was approved by the County of Riverside. Services and Supplies reflect a 1% decrease over prior year. The proposed budget assumes \$13.1 million in fund balance, available by June 30, 2013. Of this amount, approximately \$10.1 million is in unrestricted general funds and approximately \$3 million is restricted for capital purposes. The overall FY 2013-14 proposed budget reflects a \$2 million draw on restricted capital fund balance for contingent land acquisitions.

Jeff Stone stated that as discussed at the Executive Committee, the budget as proposed is a conservative approach in budgeting though he thinks that more revenue will be seen as development is increasing somewhat. Staff has kept the projections and expenditures down. The Executive Committee was satisfied to have a proposed balanced budget and RCA continues to acquire land.

In response to Debbie Franklin's question regarding the drop in miscellaneous revenue and future land purchases, Dolores Reyna, Administrative Manager II, said that RCA received a \$50,000 grant for burrowing owl which was one-time miscellaneous income. Charlie Landry said that there are negotiations underway and future land purchases are presented to the RCA Board, under Closed Session.

Maryann Edwards asked about the 20% reduction in tipping fees and Charlie Landry said that this is for out-of-county tipping fees.

Tim Brown asked the number of RCA employees and Honey Bernas said that there are ten employees.

M/S/C (STONE/EDWARDS) to adopt Resolution No. 13-003, A Resolution of the Board of Directors of the Western Riverside County Regional Conservation Authority Adopting the Fiscal Year 2013-14 Operating and Capital Budget.

14. LAND ACQUISITION UPDATE

Brian Beck reported that since the last RCA Board meeting 79 acres were added bringing the reserve total to 45,938 acres.

15. ITEMS FOR NEXT MEETING

There were no items requested for the next meeting.

Michelle Ouellette, Best, Best & Krieger – Legal Counsel, announced the following Closed Session items. Chairman Ashley adjourned the meeting to Closed Session.

16. CLOSED SESSION ITEMS

16.1 CONFERENCE WITH REAL PROPERTY NEGOTIATOR

Pursuant to Government Code Section 54956.8

Negotiating Parties: RCA – Executive Director or Designee

Under Negotiation: Price/Terms

Item	Assessor Parcel Nos.	Property Owners
1	932-180-019	Christian W. Hanson, Steven J. Layton and Diane Layton
2	470-080-004, 470-080-005, 470-090-005, 470-090-012, 569-060-059, 569-060-061	Sage 230 Partners, LLC
3	365-210-008	Jack Walter Nelson and Dan W. Nelson
4	390-270-007, 390-270-009	Northern Trust

16.2 CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

Pursuant to Subdivision (a) of Government Code Section 54956.9

- **EDCV12-012181 TJH (DTBx) JPR, Inc., dba Silverado Ranch Estates vs. United States of America; California Department of Fish and Game; County of Riverside; Western Riverside County Regional Conservation Authority**
- **MCC1300351 JPR, Inc., dba Silverado Ranch Estates vs. California Department of Fish and Game; County of Riverside; Western Riverside County Regional Conservation Authority**
- **MCC1300222 Warren Road Partners, LLP. vs. Western Riverside County Regional Conservation Authority**
- **RIC1203353 Paulek vs. Western Riverside County Regional Conservation Authority**

After the Closed Session, the meeting reconvened. There were no announcements from the Closed Session.

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17. ADJOURNMENT

There being no other items before the RCA Board, Chairman Ashley adjourned the meeting. The Western Riverside County Regional Conservation Authority Board of Directors will be held at the County of Riverside Administrative Center, Board Room, 4080 Lemon Street, Riverside, California, on June 3, 2013 at 12:30p.m.

Respectfully submitted,

A handwritten signature in cursive script that reads "Honey Bernas".

Honey Bernas
Clerk of the Board