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Focus

Riverside County Conservation Plan Is Largest Multiple-Species Prototype

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On June 17, the Riverside County Board of Supervisors approved one of the largest regional habitat-conservation plans ever attempted. Touted as the prototypical plan, the Western Riverside County Multiple Species Habitat Conservation Plan is expected to change the way that species and habitat are conserved in connection with land-use projects well beyond the county's borders.

The plan spans 1.26 million acres and calls for creating a 500,000-acre wildlife reserve, including 153,000 acres in private ownership. This reserve will be permanently conserved and managed for the benefit of 146 species. In exchange, the county and participating cities will receive regionwide permits from the state Department of Fish and Game and the U.S. Fish and Wildlife Service to "take" species listed as threatened or endangered, avoiding the need to obtain permits on a project-by-project basis.

Of the 146 species covered by the plan, 31 are listed as threatened or endangered. The federal Endangered Species Act, 16 U.S.C. Section 1531 et seq., makes it unlawful to "take" any fish or wildlife species listed as threatened or endangered. The federal law broadly defines the term "take" to mean "harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or attempt to engage in any such conduct." Section 1532(19).

Section 2080 of the state's Endangered Species Act, Fish and Game Code Section 2050 et seq., provides that one may not "take" a listed species. Section 86 defines "take" as meaning to "hunt, pursue, catch, capture or kill" or to attempt any of these acts.

However, both laws allow, by permit and implementing agreement, the taking of listed species incidental to otherwise-lawful activities. To that end, the plan serves as a "habitat conservation plan" under the Endangered Species Act, 16 U.S.C. Section 1539(a)(1)(B), as well as a "Natural Community Conservation Planning Program" under Fish and Game Code Section 2800 et seq.

Riverside County embarked on the plan because it expects its population to double to 3 million by 2020. The county was concerned that the urbanization of thousands of acres of undeveloped land would impose costly permitting delays for development projects, including much-needed transportation infrastructure.

The county also was concerned that the current approach of having individual projects obtain "take" permits would result in a piecemeal approach to mitigating impacts on species and their habitats. Thus, the county opted for assembling a large, interconnected habitat-conservation area under the plan.

The plan area includes the unincorporated lands within western Riverside County and the jurisdictional boundaries of 14 cities: Temecula, Murrieta, Lake Elsinore, Canyon Lake, Corona, Norco, Riverside, Moreno Valley, Perris, Hemet, San Jacinto, Beaumont, Banning and Calimesa. The cities must adopt ordinances to opt into the plan and implement it within their boundaries. Also, the agencies must review the plan and prepare and issue permits. These actions should be complete by September.

A distinguishing characteristic of the plan is that the boundaries of the 153,000 acres of private property needed for the reserve

are not firmly set. Rather, the reserve will be carved out of a 300,000-acre area called the criteria area. The criteria area is divided into 160-acre, quarter-section blocks, called "cells."

The plan includes narrative descriptions, on a cell-by-cell basis, of the land areas and habitat features to be conserved within each quarter-section. These descriptions, called "criteria," create a verbal map of the general reserve design. Properties within these areas are the most likely to be permanently conserved as part of the reserve.

The plan establishes a new regional conservation authority and a "habitat evaluation and acquisition negotiation" process as the mechanism for reviewing projects within the criteria area and acquiring the privately owned land in the criteria area for the reserve.

The plan estimates that the county and participating cities will acquire 56,000 acres from willing sellers, who will be monetarily compensated. The state and federal government will acquire an additional 56,000 acres. The remaining 41,000 acres would be conserved without monetary compensation, either through set-asides of land required for "mitigation" of project impacts and other building constraints or through voluntary conservation in exchange for project incentives.

Although the regional conservation authority's review and evaluation process may be completed more quickly, the plan allows for 2½ years to determine how the criteria will be applied to a particular property, what the purchase price is for the land needed for the reserve and what nonmonetary incentives are available. It also provides for another one to four years or more for the county to purchase the reserve

land, depending on the availability of funds and the value of the land to be acquired. Individual cities may or may not choose to implement the evaluation process.

Outside the criteria area, the county and participating cities will require a mitigation fee as a condition of project approval. Within the next week, the Board of Supervisors is expected to consider a fee of \$1,500 per residential unit and \$5,600 per acre for nonresidential projects.

The plan also establishes other conservation programs and biological-survey requirements that apply to projects within and outside the criteria area. For example, projects in proximity to the reserve must comply with new urban-wildlife interface guidelines designed to reduce "edge effects" on the reserve, particularly from urban lighting, noise and non-native species.

Project proponents also must survey, map and analyze the "functions and values" of riparian-riverine areas (areas containing or adjacent to water) in connection with their suitability as habitat for 17 plant and animal species; survey, map and assess habitat suitability for 14 "narrow endemic" plant species (those restricted by ecological factors); and set back from or mitigate on-site riparian-riverine areas, vernal pools and narrow endemic plant habitat areas.

Projects must complete the biological surveys, mapping and assessments and the evaluation process before the applications are deemed complete.

Of the 109 comment letters submitted on the plan and its environmental impact statement-report, 105 were critical. The letters take issue with the plan's legality and scientific bases, its procedures and conservation programs that may complicate

rather than streamline project review, and the availability of adequate funding sources to pay the \$1 billion cost. As a result, the plan probably will be subjected to legal challenge.

Project proponents throughout western Riverside County will be charting new territory as the county, participating cities, and state and federal resource agencies work their way through the plan's new procedures. Since state and federal agencies consider the plan to be prototypical, the plan's future is worth watching for landowners and project proponents in urbanizing areas outside the county.

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