

# STAFF REPORT

**SUBJECT:** Minor Amendment Update

**RECOMMENDED ACTION:** Discussion

## **SUMMARY:**

During the inception of the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan (SJMSCP), a special category was created under Section 8.2.1 (10) regarding covered activities. This specific section of the habitat plan anticipated future growth of cities through annexations to approved compensation maps of each city but the areas of the growth were not known or identified on any maps. The limited amount of urban growth allotted under this specific section of the plan was 5,340 acres for those covered annexation activities which are known as “Contingency Acre” projects for the life of the plan.

In late 2006, the Contingency Acres allowed under the plan were exhausted. Without any further contingency acreage to be provided, future development projects to be annexed to the cities which were not already on the compensation maps could not be covered under the habitat plan and would need to seek individual consultation with the already overburdened permitting agencies. That would be counterintuitive to the reason for a regional habitat conservation plan.

Staff worked with permitting to rectify the matter through a Minor Amendment process in Section 8.8.4 on how development projects, such as previous contingency acre projects, would be provided coverage under the habitat plan. The solution was using an already existing process through which these special projects would be required to apply for coverage. The review process would be identical to the Unmapped Project process which many individual San Joaquin County projects follow.

## **DISCUSSION:**

The basis of the amendment was to adapt an existing review process by HTAC and Board under the plan for unmapped projects seeking coverage and permitted under Section 8.2.1. The existing unmapped process will be used to now review all projects which are seeking coverage through the SJMSCP but are not located on either a jurisdictional compensation map or the San Joaquin County Land Use Map.

To help streamline the amendment process, SJCOG, Inc. staff worked with the permitting agencies, consultant (Amy Augustine) and outside legal counsel (Neumiller & Beardslee) over the past several months to produce an amendment package which addresses this imperative amendment to the SJMSCP. The goal of the amendment package was to proceed with an amendment which was minor in nature and avoided various projects being pushed out of the SJMSCP to negotiate with the permitting agencies for species coverage. This is the very process the plan was intended to streamline. The process needs to not only satisfy the afore mentioned goals, but satisfy the SJMSCP biological opinion upon which the federal and state take permits are based.

In early spring 2008, staff released an amendment package to the permitting agencies for review. After various comments and revisions were made, a second minor amendment package was provided to permitting. The permitting agencies approved the minor amendment through written approval as required under the habitat plan. Attachment 1 contains the *approval letter from* the permitting agencies. With the written approval from United States Fish and Wildlife Service and California Department of Fish and Game, the minor amendment for processing Unmapped Projects under the habitat conservation program is effective immediately.

*Prepared by: Steve Mayo, Senior Habitat Planner*  
*M:\STAFFRPT\2008\August\Board\Minor Amendment Update.doc*

## Attachment 1 – Approval Letter from Permitting



US Fish & Wildlife Service  
Sacramento Fish and Wildlife Office  
2800 Cottage Way, Room W-2605  
Sacramento, CA 95825-1846  
(916) 414-6600  
FAX (916) 414-6612



CA Dept. of Fish & Game  
1416 Ninth Street  
12th Floor  
Sacramento, CA 94244-2090  
(916) 653-9767  
FAX (916) 653-2588

August 12, 2008

In Reply Please Refer to  
Service File Numbers:  
1-1-95-HP-0479  
81420-2008-B-0383

Mr. Steve Mayo, Administrator  
San Joaquin County Multi-species Habitat Conservation and Open Space Plan  
San Joaquin Council of Governments  
555 E. Weber Avenue  
Stockton, CA 95202

Dear Mr. Mayo:

The Department of Fish and Game and The Fish and Wildlife Service have received your updated request for a minor amendment to the San Joaquin County Multi-species Habitat Conservation and Open Space Plan (SJMSCP) on June 25, 2008, (dated June 24, 2008) from your counsel's office, Neumiller & Beardslee. The changes proposed do not increase the amount of habitat to be destroyed, change the compensation to be provided, or change the list of covered species. The proposed minor amendment adjusts the procedure that a project proponent must follow if seeking coverage as an Unmapped Land Use Project. Projects seeking coverage must be located adjacent to an existing incorporated city, or boundary of a defined community, and be subjected to a case-by-case review by the JPA's Technical Advisory Committee.

We appreciate your efforts to improve the functioning of the SJMSCP while staying within the already approved scope. Both agencies hereby approve your proposed minor amendment as presented in the June submittal.

Sincerely,

Handwritten signature of Cay Goude in cursive.

Cay Goude  
Assistant Field Supervisor  
Endangered Species Program  
Sacramento Fish and Wildlife Service Office

Sincerely,

Handwritten signature of Sandra Morey in cursive.

Sandra Morey  
Regional Manager  
North Central Region  
California Department of Fish and Game

cc's: Page Two

Mr. Mayo  
August 12, 2008  
Page Two

cc: Steve Dial, San Joaquin Council of Governments  
555 E. Weber Avenue  
Stockton, CA 95202

Rod Attebery, Neumiller & Beardslee  
P.O. Box 20  
Stockton, CA 95201