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MEMORANDUM

DATE: August 15, 2006

TO: Gregory L. Fuz, Development Services Director

FROM: Steven D. Hust, Principal Planner

SUBJECT: Integrated Natural Resources Management Plan - General Plan Policy 7.4.2.8 - Briefing Paper

Background & Purpose:

The General Plan addresses the loss and fragmentation of wildlife habitat through policies included in the Open Space and Conservation Element. Policy 7.4.2.8 requires the development and implementation of an Integrated Natural Resource Management Plan within five years of the date of adoption of the General Plan. The INRMP is intended to identify important habitat in the County and establish a program for effective habitat preservation and management. Policy 7.4.2.8 states that the INRMP shall include: habitat inventory, habitat protection strategy, provide for mitigation assistance, habitat acquisition program, habitat management actions, monitoring, public participation and funding mechanisms. The requirements of Policy 7.4.2.8 outline a programmatic approach to regional conservation planning that could fulfill some of the requirements of federal Habitat Conservation Plans (HCPs) and state Natural Community Conservation Plans (NCCP) while meeting the local needs of El Dorado County.

The INRMP will provide a comprehensive plan for the protection and conservation of the region's endangered, threatened, and rare species and natural communities, while allowing for development and growth. Building upon the foundation created by the General Plan, the INRMP will allow the County to:

- Provide a mechanism for ensuring regional compliance with state and federal endangered species act (ESA) laws;
- Provide a regional mitigation process to avoid piece-meal biological reports and project-by-project mitigation;
- Provide predictable mitigation for project applicants;
- Coordinate County, State and Federal wildlife agency mitigation requirements;
- Enable the County to assume local mitigation authority under applicable state and federal regulations; and
- Provide a vehicle for coordinating conservation and mitigation efforts within the County.

INRMP (HCP/NCCP) Overview:

The following information is mainly derived from the book “Understanding the Habitat Conservation Planning Process in California, A Guidebook for Project and Regional Conservation Planning” published by the Institute for Local Self Government and accessible online at

<http://www.cacities.org/index.jsp?zone=ilsg&previewStory=22255>.

HABITAT CONSERVATION PLANS

Federal and state laws that protect threatened and endangered species each provide planning procedures for the protection of these species. The Federal ESA offers Habitat Conservation Plans (HCPs). The California Natural Community Conservation Planning Act (NCCPA) provides for Natural Community Conservation Plans (NCCPs) that include compliance with the California ESA.

HCPs are the federal mechanism for resolving conflict between development and the protection of threatened and endangered species. In many areas of California, development of land for housing and other needs adversely affects wildlife and fish protected by the federal ESA. Proponents of development projects can address this concern by preparing a Habitat Conservation Plan, or public agencies can address this concern at a regional level by preparation of programmatic HCPs that build from General Plans.

HCPs spell out the measures to be taken that will protect endangered species affected by a project, or by cumulative growth as envisioned by a general plan. When an HCP receives the approval of a federal wildlife agency (either the US Fish & Wildlife Service or NOAA Fisheries), the HCP proponent receives a permit that allows the resulting impacts on threatened or endangered species. By

encouraging public and private development projects (including local agencies implementing general plans) to include measures to reduce the impact on endangered species, habitat conservation planning reconciles the goals of species protection and economic development.

HCPs have evolved to address a wide range of development activities. Their scopes encompass small housing developments as well as forestry and regional development activities covering millions of acres. Some project HCPs address a single species on less than one acre. Regional HCPs may address dozens of species on thousands or millions of acres, requiring multiple partners in their development and implementation.

NATURAL COMMUNITY CONSERVATION PLANS

The California Legislature passed the Natural Community Conservation Act in 1991 to address the conflict of urban development and declining wildlife populations. The Act provides for a regional planning process focused on protecting biological communities rather than single species. The goal of the Act is to conserve species before they become endangered. Under amendment to the Act (codification of the NCCA became known as the Natural Community Conservation Planning Act or NCCPA), the California Department of Fish & Game may authorize take for species that may become protected under the California ESA. The plans authorized to be developed under the Act are called Natural Community Conservation Plans (or NCCPs).

The Natural Community Conservation Planning Act addresses the need for broad-based planning to accommodate conflicting demands for wildlife conservation and development. The Act's conservation requirements exceed previous state and federal requirements for mitigation of impacts by requiring plan preparers to contribute to the recovery of threatened and endangered species and their habitat.

CESA SECTION 2081 PERMIT

The California Endangered Species Act (CESA) provides protection to state-listed threatened or endangered species. The Act provides for the listing of species, prohibits take, and can authorize take of protected species. CESA allows the California Department of Fish and Game (DFG) to issue permits for the incidental take of listed species as authorized under Section 2081(b) of the California Fish and Game code. CESA is similar to the federal ESA, but has differences.

DFG must make certain findings before issuing an individual Incidental Take Permit, not the least of which is meeting the requirement that the impacts of

take be “fully” mitigated, which differs from the federal ESA’s requirement that impacts be minimized and mitigated to the “maximum extent practicable.”

Section 2081 permit actions require CEQA compliance, as the Take Permit is a discretionary action. CEQA requires an Initial Study and preparation of either a mitigated negative declaration or an Environmental Impact Report.

LOCAL AGENCY ROLE

Endangered species live in habitats that are not confined by property lines and city and county limits. Development, urban and agricultural, has pushed many species to the brink of extinction. Several California species have already gone extinct. As California counties continue to grow, pressure on endangered and threatened species will increase. Federal agencies; state agencies; and local, state, and national conservation organizations are actively acquiring and managing land for conservation in California. Local agencies can complement these efforts through regional Habitat Conservation Plans and Natural Community Conservation Plans, which provide for an alternative to project-by-project mitigation. Regional conservation planning at the local level can help relieve the pressure of development before California loses more of its natural heritage. Many land use planners consider regional conservation planning to be one element of the emerging planning techniques known as “smart growth”.

Federal and state wildlife conservation laws supplement local agencies’ land use authority with legal and planning tools that can be combined to achieve effective species protection and habitat conservation. Local agencies that adopt a proactive approach to habitat conservation planning can grow more efficiently and create more livable communities. Regional conservation planning can help to achieve these goals. Some local jurisdictions are combining regional federal and state conservation plans with more traditional regional planning tools. By integrating general plans, specific plans, open space plans, and transportation plans, and by incorporation of elements of watershed and/or floodplain plans, local agencies can create a comprehensive regional planning process.

Table 1 compares the requirements of non-regulatory INRMPs, HCPs, NCCPs, and Section 2081 plans.

Table 1
Key Requirements of INRMPs, HCPs, NCCPs, and CESA Section 2081 Permits

Non-Regulatory INRMP	HCP	NCCP	CESA Section 2081
Mitigation assistance	Minimize and mitigate impacts to maximum extent practicable	<ul style="list-style-type: none"> Mitigation roughly proportional in time and extent to impact Conserve (contribute to recovery) species Conserve natural communities 	Minimize and fully mitigate roughly proportional to impacts
<ul style="list-style-type: none"> Habitat protection strategy Habitat acquisition Habitat management 	<ul style="list-style-type: none"> Measures to mitigate impacts Species not jeopardized 	<ul style="list-style-type: none"> Measures taken to mitigate impacts and conserve species and communities Species not jeopardized 	<ul style="list-style-type: none"> Measures to mitigate impacts Species not jeopardized
Habitat inventory	<ul style="list-style-type: none"> Baseline conditions for species Level of species take 	<ul style="list-style-type: none"> Baseline conditions for species habitat and communities Level of species take, and extent of natural community impacts 	Level of species take
Habitat monitoring	Monitoring (effects, effectiveness, compliance)	Monitoring (effects, effectiveness, compliance)	Compliance monitoring
Funding support	Ensure funding	Ensure funding	Ensure funding
CEQA Compliance	Public participation and science review encouraged	Public involvement and scientific review required	
	Adaptive management	Adaptive management	
	Implementation agreement	Planning agreement	
	<ul style="list-style-type: none"> Unforeseen circumstances Changed circumstances 	Implementation agreement	
	Additional measures required by USFWS or NOAA Fisheries	Unforeseen circumstances	
	Alternatives to take considered and rejected	CEQA Compliance	
	NEPA Compliance		

Source: SAIC 2006

INRMP, HCP, NCCP – Pros & Cons:

Regional habitat conservation planning, whether in the form of an INRMP, HCP, or NCCP, is typically a proactive effort to combine the conservation of species and their habitats with land use planning for growth and development. The project-by-project permitting process typically remains an option within regional plan areas. There are advantages and disadvantages to the regional approach compared to the project-by-project approach.

ADVANTAGES

- More effective conservation of species, habitat, natural communities, and ecosystem processes.
- Greater flexibility in determining location of conservation areas.
- Better integration with local land use planning processes.
- Completed plan adds predictability to development process and expedites approvals.
- Creates economies of scale: less costly per acre of development and per acre of habitat preserved.
- Greater benefits when integrated with other state and federal requirements, such as wetland, stream, watershed conservation

DISADVANTAGES

- Complex process that requires significant knowledge, foresight, and time.
- Requires broad stakeholder participation and consensus.
- Requires strong, unbroken political support from elected officials.
- Potentially large up-front costs.
- Benefits potentially unrealized for years because of long time needed to develop plan and process permits.
- Difficult to maintain momentum, consensus, and funding through completion of the plan.

Table 2 compares the benefits and constraints of each conservation process.

Table 2
Comparison of Benefits and Constraints of INRMPS, HCPs, NCCPs, and CESA Section 2081 Permits

Non-Regulatory INRMP		HCP		NCCP		CESA Section 2081 Permit	
<i>Benefits</i>	<i>Constraints</i>	<i>Benefits</i>	<i>Constraints</i>	<i>Benefits</i>	<i>Constraints</i>	<i>Benefits</i>	<i>Constraints</i>
Process completed more rapidly than HCP/NCCP	No authorization for take of listed species	<ul style="list-style-type: none"> • Take of ESA-listed species (10) • Take of covered species that are listed in the future (12) 	3+ years to complete	<ul style="list-style-type: none"> • Take of CESA-listed species (4) • Take of covered species listed in the future (17) 	3+ years to complete	Take of CESA-listed species (4)	No assurances for future listing of non-listed species
Mitigation support to permit applicants	No Section 6 funding	Section 6 funding		Section 6 funding	Requires more conservation than CESA Section 2081	Process completed more rapidly than NCCP	No funding is available
Framework for preparation of a HCP/NCCP	Requires individual take permits	Framework for rapid issuance of permits		Framework for rapid issuance of permits			Requires individual take permits
	Additional mitigation and information may be required						DFG will encourage NCCP if a regional HCP is developed

Source: SAIC 2006

LESSONS LEARNED

The U.S. Fish and Wildlife Service (FWS) (<http://www.fws.gov/endangered/hcp/index.html>) and the California Department of Fish & Game (<http://www.dfg.ca.gov/hcpb/conplan/conplan.shtml>) have published guidelines for the completion of HCPs and NCCPs. Both agencies also offer suggestions about what it takes to successfully complete a regional conservation plan. Over the years, many agencies have commenced HCP and/or NCCP processes and a great deal of information has been collected about those experiences. The DFG has published a summary report which includes a list of successful elements, and a corresponding list setting forth the reasons why some HCP/NCCP processes failed. This information is provided as Attachment 1.

WE ARE NOT ALONE

El Dorado County, if the Board of Supervisors elects to proceed with the preparation of the INRMP/HCP/NCCP, will join a large group of California agencies that are engaged in HCP/NCCP processes at various stages of development. Tremendous opportunities exist to share information about process experiences and issues, and to leverage the conservation efforts of local and/or sub-regional agencies into much larger geographic conservation efforts which has the potential to derive enhanced benefits. For more information about these conservation planning efforts the following two references are provided:

- Northern California Conservation Planning Partners (AKA: “NorCal 6”)

The NorCal 6 represents an effort undertaken by six northern California counties to collaboratively coordinate their individual conservation planning efforts to achieve a much greater conservation goal, possibly benefiting a large geographic area of Northern California. This effort, as only one example, has received the attention of the Army Corps of Engineers who is now engaged in discussions to prepare, and approve regional programmatic Section 404 permits, which when complete will vastly streamline the existing project-by-project Section 404 permit review process. Attachment 2 provides information about NorCal 6, member agencies and contact information, plans in-process and funding sources.

- Placer Legacy

Placer County has engaged in a comprehensive open space and agriculture preservation program, which includes a regulatory HCP/NCCP component. The Placer County approach is also known as Placer Legacy. Placer Legacy intends

to cover the entire county, and the plan will be prepared in phases with each subsequent phase addressing different geographic areas of the County. The Placer Legacy approach has been the subject of praise for its innovative and ambitious approach, and criticism for the time and cost taken to date. The Placer Legacy plan is not complete with key elements of the conservation strategy and preserve system program still to be decided. Attachment 3 provides a summary overview of the Placer Legacy program.

INFORMATIONAL SOURCES

Planning Services researched and reviewed a great deal of conservation planning information in preparation for implementation of this important General Plan program. The Northern California Conservation Planning Partners website provides a comprehensive list and internet address linkages to related conservation planning source information. This information is provided as Attachment 4 and reviewers of this briefing paper are strongly encouraged to visit the above referenced website.

Another link with HCP information is offered by the US Fish and Wildlife Service:

http://www.fws.gov/endangered/hcp/HCP_Incidental_Take.pdf

Attachments:

Attachment 1: Lessons Learned on Conservation Planning

Attachment 2: Northern California Conservation Planning Partners Summary

Attachment 3: Placer Legacy Open Space and Agricultural Conservation Program

Attachment 4: Northern California Conservation Planning Partners, Links Directory