

DATE ISSUED: February 9, 2001

REPORT NO. 01-028

ATTENTION: Natural Resources and Culture Committee
Agenda of February 14, 2001

SUBJECT: MSCP Background and Status Report

SUMMARY

THIS IS AN INFORMATION ITEM ONLY. NO ACTION IS REQUIRED ON THE PART OF THE COMMITTEE OR THE CITY COUNCIL.

INTRODUCTION/ BACKGROUND

San Diego is recognized as a “hot spot” of biological diversity, with more listed species than any other city in the continental United States. Approved by the City Council in March 1997, the City’s Multiple Species Conservation Program (MSCP) will conserve 52,000 acres of the City’s most significant habitat for the protection of sensitive, rare and endangered species. The network of habitat and open space conserved by the MSCP will enhance the region's quality of life by providing a balance between the conservation of San Diego’s natural heritage and the projected regional growth. The MSCP will provide an economic benefit by reducing the costs of compliance with federal and state laws through the pro-active protection of biological resources, and at the same time increases wildlife education and recreational opportunities.

The MSCP Plan has been developed cooperatively by participating local jurisdictions, wildlife agencies, property owners, and representatives of the development industry and environmental groups. The MSCP study area covers approximately 900 square miles (582,243 acres) in southwestern San Diego County and includes the City of San Diego, portions of the unincorporated County of San Diego, ten additional city jurisdictions, and several independent special districts (e.g., SDG&E, CWA).

The City of San Diego proposes to conserve 52,000 acres of habitat, which is approximately 61% of the total natural habitat within the City of San Diego. Based on the open space configuration, vegetation community conservation targets, and implementation of habitat management plans, 85 “at risk” species will be adequately conserved and “covered” by this plan. The City has committed 15,000 acres of key habitat areas surrounding the City’s reservoirs for the protection of endangered species under this Plan. These lands are referred to as the Cornerstone Lands. Twenty-six hundred acres (Marron Valley) have already been conserved through an easement to the state of California and the establishment of a mitigation bank.

CITY IMPLEMENTATION

The City implements the MSCP through the existing discretionary permit process, thereby avoiding the creation of a new permitting process. The review of development projects for

consistency with the MSCP is conducted as part of the Process 2000 multi-disciplinary team review. The MSCP staff are members of the team and review projects for consistency with the City's MSCP Subarea Plan and implementing regulations. Consultation with the federal and wildlife agencies is solicited if necessary. MSCP staff determines if the project is in the Multi-Habitat Planning Area (MHPA), and if so, identifies any applicable MSCP planning policies, framework management plan requirements, and development restrictions. The obligations of the MSCP are implemented through the City's Environmentally Sensitive Lands Ordinance and, if applicable, the Open Space Residential Zone (OR-1-2).

Since the adoption of the MSCP in March of 1997, 364 development projects have been reviewed or are currently in the review process. Development activity within the City of San Diego has continued at a brisk pace throughout 2000. City staff continues to ensure that projects conform with the City's MSCP Subarea Plan, and mitigation, as appropriate, incorporated into project designs. Projects that comply with the policies of the MSCP are afforded "Third Party Beneficiary" status allowing impacts to endangered species through the City's MSCP.

STATUS OF CONSERVATION

Since the adoption of the MSCP Subarea Plan, efforts by the City, the County, wildlife agencies and private development interest to acquire habitat within the City's MHPA have resulted in the conservation of 28,814 acres. Contributions by the City include dedications of existing public lands (22,083 acres), establishment of the Marron Valley Mitigation Bank (2,600 acres), City-funded acquisitions (1,152 acres), as well as mitigation and exactions for private development (2,125 acres). The County of San Diego has acquired 197 acres in the Tijuana River Valley. The federal and state governments have acquired 657 acres.

The City of San Diego Council has approved \$19,034,054 of City funds for the acquisition of 1,152 acres of critical habitat within the MSCP. The state and federal wildlife agencies have aided in the acquisition of 657 acres within the City of San Diego at a cost of \$15,734,679. These funds were used to acquire the properties such as the Torrey Surf and Mesa Top parcels located on Carmel Mountain, the San Dieguito Partnership property in the San Dieguito River Valley, the Konyn property in San Pasqual, and the Anderson parcel in Otay Mesa. In total the average cost of public land acquisition has been \$19,220 per acre.

On April 17, 2000, the City Council Rules Committee adopted land acquisition priorities for the MSCP which include the Montana Mirador parcel on Black Mountain, Del Mar Mesa, lands north of Mission Trails Regional Park in the East Elliott Community, lands in Spring Canyon, Otay Mesa, and vernal pool properties throughout the City. It is estimated that a total of \$85 million would be needed to obtain the 4,181 acres of lands identified as acquisition priorities. Since the Rules committee hearing, MSCP staff has secured \$4.4 million from the County Water Authority (CWA) as mitigation to be used to fund the acquisition of 325 acres of the Montana Mirador parcel. MSCP staff will be going to the state Wildlife Conservation Board on February 23, 2001 to request grant funding to complete the acquisition of the remainder of the Montana Mirador parcel. MSCP staff has also secured \$500,000 in grants for Del Mar Mesa and a \$3.0 million grant for East Elliott. Appraisals are currently being conducted on Del Mar Mesa and East Elliott and acquisition at fair market value from willing sellers will proceed as funding permits.

IMPLEMENTATION CHALLENGES

Regional Funding: City staff, in cooperation with the other participating jurisdictions, is working on a long-term regional funding source for implementing the MSCP. In July 2000 the SANDAG Board referred a proposal to develop a strategy on the reauthorization of the 1/2 cent sales tax, TRANSNET, to the Regional Transportation Plan Citizen Advisory Committee (RTP CAC). Currently a subcommittee of the RTP CAC is considering a proposal to have a portion of TRANSNET allocated for local regional funding of the MSCP (approximately \$1 billion). An interim funding plan for MSCP was approved by the wildlife agencies on November 21, 2001 (see Attachment 1).

Interim Funding: On November 27, 2000, City Council approved a Three-Year Funding Policy Statement to establish policy direction for funding of the MSCP in fiscal years 2002, 2003 and 2004, subject to Council approval. The interim funding would generate \$14,770,300 for land acquisition, \$9,356,755 for land management, and \$1,056,401 for biological monitoring. Monies would come from the California Tobacco Fund, mitigation funds, property sales, grants, land exactions, the General Fund, and the Environmental Growth Fund. Future monies necessary to implement the MSCP would be allocated by the City Council during the annual budget process until a regional funding source is secured.

In March 2000, the voters approved Proposition 12 (Parks and Open Space Bond). Included in Proposition 12 is a \$100 million allocation for open space acquisition in jurisdictions with approved Natural Communities Conservation Plans (NCCP). The City of San Diego's MSCP is one of two such plans within the state. The second is in Orange County which has an approved NCCP plan for the central county area. Proposition 12 funds will be available through competitive grants with local matches preferred, and in most cases required.

MSCP Lawsuit Status: A coalition of environmental groups is currently suing the United States Fish and Wildlife Services (FWS) and the City over the regulation of vernal pools under the MSCP. Plaintiffs contend, among other things, the FWS violated the Endangered Species Act when it found that the MSCP will not appreciably reduce the likelihood of the survival and recovery of five plant and two animal species typically found in vernal pools. Under the MSCP, a developer is required to avoid vernal pools to the maximum extent practicable and fully mitigate for any loss of vernal pool resources that cannot be practically avoided. The City and the FWS believe the MSCP's treatment of vernal pools fully complies with the Endangered Species Act. Subsequent to filing of the lawsuit, a U.S. Supreme Court ruling has reduced the regulatory authority of the federal government over vernal pools.

Wetland Regulations: City Council has directed staff to provide clarifying language to the existing wetland regulations that are incorporated in the Environmentally Sensitive Lands Ordinance of the Municipal Code. Staff had been working with a group of stakeholders from the development and environmental communities, as well as the City's Wetland Advisory Board to explore options for clarifying the wetland language. The MSCP lawsuit over vernal pools has postponed additional effort on this process. Once the lawsuit is resolved, it is hoped that staff can reach a consensus with the various stakeholders on this issue and docket for Council to

consider revisions to the ESL Ordinance.

CONCLUSION

Since the adoption of the City's MSCP Subarea Plan in July 1997, significant achievements have occurred which continue to contribute to the successful implementation of the City's MSCP Subarea Plan. As designed, 97% of the loss of habitat has occurred outside of the MHPA, while more than 89% of the MHPA has been conserved or obligated for conservation. More than 364 projects have been reviewed for consistency with the City's MSCP Subarea Plan and many of these projects have benefitted from the City's streamlined take approval process.

The City continues to be successful in securing state and federal grants, but obtaining matching local funding continues to be a challenge to future grant efforts. While significant challenges remain to fully implement the City's MSCP Subarea Plan, program objectives to date have been achieved or exceeded (see Attachment 2).

Respectfully submitted,

S. Gail Goldberg, AICP
Planning Director

Approved: P. Lamont Ewell,
Assistant City Manager

GOLDBERG/KG

Attachments: *1. Letter from the U.S. Fish and Wildlife Service dated November 21, 2000.
*2. Letter from the U.S. Fish and Wildlife Service and the California Department of Fish and Game dated November 7, 2000.

*Note: Attachments not available in electronic format. Copies of the attachments are available for review in the Office of the City Clerk, (619) 533-4000.