



COUNTY OF PLACER
Community Development/Resource Agency

PLANNING
SERVICES DIVISION

Michael J. Johnson, AICP
Agency Director

Paul Thompson, Deputy Director

MEMORANDUM

TO: Honorable Board of Supervisors

FROM: Michael J. Johnson, AICP
Agency Director

DATE: May 7, 2013

SUBJECT: Placer County Conservation Plan – Federal Infrastructure Facilitation and Habitat Conservation Act

ACTIONS REQUESTED

Adopt a Resolution (Exhibit A) supporting the Federal Infrastructure Facilitation and Habitat Conservation Act that will establish a program to provide loans and loan guarantees to public entities that have an approved habitat conservation plan for property acquisitions. There is no net County cost associated with this action.

BACKGROUND

In June 2000, the Board directed staff to begin the implementation of the Placer Legacy Program. This direction included the preparation of a Natural Communities Conservation Plan (NCCP), a Habitat Conservation Plan (HCP), and a County Aquatic Resources Program (CARP) to address the State and Federal Endangered Species Act and Federal wetlands laws. This effort, now known as the Placer County Conservation Plan (PCCP), is expected to be completed by 2015. The area identified for conservation for the PCCP is projected to be 30,000 to 50,000 acres. The conservation objectives also include lands protected within major streams and tributaries, wetlands and other jurisdictional waters.

Once approved, the costs associated with PCCP implementation will include land acquisition, reserve monitoring/management and program administration. Eighty percent of the PCCP implementation budget is expected to be land acquisition. Typical HCP revenue sources for land acquisitions are developer contributions and fees, sales and transfer taxes, and special district assessments. Unfortunately, these revenue sources have become scarce due to the recession. As a result of this counter-cyclical funding mechanism, the local and regional governments that administer these HCPs are unable to buy land to build their habitat preserves even while unimproved land prices drop.

DISCUSSION

In 2011, during the 112th Congress, Senator Dianne Feinstein introduced Senate Bill 826 (Exhibit B), the "Infrastructure Facilitation and Habitat Conservation Act". Rep. Ken Calvert introduced companion legislation in the House (H.R. 1907). It is anticipated that this legislation will be reintroduced in the current, 113th Congress. Under the bill, the Department of the Treasury would administer a Conservation Loan and Loan Guarantee Program with input from the Secretary of the Interior and, in some cases, the Secretary of Commerce. Habitat conservation loans would be

made available to public entities that meet specified habitat-related criteria, including whether these entities: administer a fully authorized and approved HCP, preferably in a rapidly-growing region; demonstrate a capacity to complete their habitat acquisition plan; demonstrate a capacity to repay the loan; and combine their HCP with an accompanying plan for sustainable regional infrastructure development.

The Infrastructure Facilitation and Habitat Conservation Act will help reduce the counter-cyclical funding mechanism problem by providing HCPs with low-interest, long-term federal loans and/or loan guarantees. This program will maintain momentum for completion of HCPs and assure continued integration of infrastructure and habitat objectives by providing local and regional governments the much needed access to ready cash for land acquisition. Funds for debt service would be derived from the same combination of sources that have so far supported land acquisition.

The Planning Services Division has coordinated this effort with the CEO's office and Holland & Knight, the County's Federal legislative advocates. The resolution is also consistent with the County's Federal priorities in the annual Legislative Platform. The Platform, serves as the basis for the County's advocacy efforts with executive and legislative branches of state and federal government. It contains the County's overall legislative principles for 2013 and broad goals and specific legislative proposals of interest and benefit to the County. Legislative Platform Proposal 38 (Preserve and Protect Natural Communities and Implement Watershed Protection Efforts through the PCCP) states, the County should support legislation and programs that advance the objectives of the PCCP to protect open space and agricultural land in the County and to comply with the myriad of state and federal laws that apply to wetlands and sensitive species while streamlining regulatory procedures.

FISCAL IMPACT

The Federal Infrastructure Facilitation and Habitat Conservation Act supports habitat conservation planning in the United States and, for local implementing entities, this bill will provide an increase in funding opportunities for land acquisition that would be fiscally positive. The Conservation Loan and Loan Guarantee program will allow implementing entities to purchase land when market prices are lower and collect fees overtime to repay the loan. This type of program will provide certainty in HCP implementation as well as certainty in the habitat fees programs.

Exhibits:

- Exhibit A: Resolution to support the Federal Infrastructure Facilitation and Habitat Conservation Act
- Exhibit B: Federal Infrastructure Facilitation and Habitat Conservation Act of 2011(S. 826).

cc: Loren Clark, CDRA

Before the Board of Supervisors County of Placer, State of California

In the matter of:

Resolution No.: _____

A RESOLUTION TO SUPPORT THE FEDERAL
INFRASTRUCTURE FACILITATION AND HABITAT
CONSERVATION ACT

The following Resolution was duly passed by the Board of Supervisors of the County of Placer at a regular meeting held _____, by the following vote on roll call:

Ayes:

Noes:

Absent:

Signed and approved by me after its passage.

Attest:
Clerk of said Board

Chairman, Board of Supervisors

Clerk of the Board Signature

Chairman Signature

BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF PLACER, STATE OF CALIFORNIA, AS FOLLOWS:

WHEREAS, jurisdictions across California have embarked on habitat conservation planning (HCP) or Natural Community Conservation Planning (NCCP) to conserve species and their habitats; and,

WHEREAS, HCP and NCCP planning efforts aid our economies and job creation through the efficient permitting for impacts to sensitive species and their habitats; and,

WHEREAS, these planning efforts will provide regulatory relief by streamlining the permitting process, identifying the costs earlier in the process, and providing time for complying with state and federal environmental regulations; and,

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EXHIBIT A

WHEREAS, these planning efforts will offer opportunities for private landowners to voluntarily participate in the selling of conservation easements or sale of their land; and,

WHEREAS, these planning efforts will set a national example of how to balance the conservation of biological resources with significant growth throughout California; and,

WHEREAS, these planning efforts will aid in the recovery of endangered and threatened wildlife species and enhance their habitats; and,

WHEREAS, regional, landscape level conservation planning efforts will protect a broad diversity of species and habitats; and,

WHEREAS, Placer County has invested over \$6 million in monies from its General Fund to prepare the Placer County Conservation Plan (PCCP); and

WHEREAS, the Federal Infrastructure Facilitation and Habitat Conservation creates the Conservation Loan and Loan Guarantee Program which will provide local and regional governments access to low-interest, long-term federal loans and/or loan guarantees that provide ready cash for land acquisition to implement habitat conservation plans; and

WHEREAS, the PCCP will need funding mechanisms such as those provided by the Conservation Loan and Loan Guarantee Program, described in the Federal Infrastructure Facilitation and Habitat Conservation Act, to meet habitat and conservation objectives.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF PLACER does hereby support the Federal Infrastructure Facilitation and Habitat Conservation Act and will continue working together with agencies from counties across California to request that the United States Congress provide financial mechanisms to support the implementation of approved habitat conservation plans.

112TH CONGRESS
1ST SESSION

S. 826

To require the Secretary of the Treasury to establish a program to provide loans and loan guarantees to enable eligible public entities to acquire interests in real property that are in compliance with habitat conservation plans approved by the Secretary of the Interior under the Endangered Species Act of 1973, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 14, 2011

Mrs. FEINSTEIN introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To require the Secretary of the Treasury to establish a program to provide loans and loan guarantees to enable eligible public entities to acquire interests in real property that are in compliance with habitat conservation plans approved by the Secretary of the Interior under the Endangered Species Act of 1973, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Infrastructure Facili-
5 tation and Habitat Conservation Act of 2011”.

1 **SEC. 2. CONSERVATION LOAN AND LOAN GUARANTEE PRO-**
 2 **GRAM.**

3 (a) **DEFINITIONS.**—In this section:

4 (1) **ELIGIBLE PUBLIC ENTITY.**—The term “eli-
 5 gible public entity” means a political subdivision of
 6 a State, including—

7 (A) a duly established town, township, or
 8 county;

9 (B) an entity established for the purpose
 10 of regional governance;

11 (C) a special purpose entity; and

12 (D) a joint powers authority, or other enti-
 13 ty certified by the Governor of a State, to have
 14 authority to implement a habitat conservation
 15 plan pursuant to section 10(a) of the Endan-
 16 gered Species Act of 1973 (16 U.S.C. 1539(a)).

17 (2) **PROGRAM.**—The term “program” means
 18 the conservation loan and loan guarantee program
 19 established by the Secretary under subsection (b)(1).

20 (3) **SECRETARY.**—The term “Secretary” means
 21 the Secretary of the Treasury.

22 (b) **LOAN AND LOAN GUARANTEE PROGRAM.**—

23 (1) **ESTABLISHMENT.**—As soon as practicable
 24 after the date of enactment of this Act, the Sec-
 25 retary shall establish a program to provide loans and
 26 loan guarantees to eligible public entities to enable

1 eligible public entities to acquire interests in real
2 property that are acquired pursuant to habitat con-
3 servation plans approved by the Secretary of the In-
4 terior under section 10 of the Endangered Species
5 Act of 1973 (16 U.S.C. 1539).

6 (2) APPLICATION; APPROVAL PROCESS.—

7 (A) APPLICATION.—

8 (i) IN GENERAL.—To be eligible to re-
9 ceive a loan or loan guarantee under the
10 program, an eligible public entity shall sub-
11 mit to the Secretary an application at such
12 time, in such form and manner, and in-
13 cluding such information as the Secretary
14 may require.

15 (ii) SOLICITATION OF APPLICA-
16 TIONS.—Not less frequently than once per
17 calendar year, the Secretary shall solicit
18 from eligible public entities applications for
19 loans and loan guarantees in accordance
20 with this section.

21 (B) APPROVAL PROCESS.—

22 (i) SUBMISSION OF APPLICATIONS TO
23 SECRETARY OF THE INTERIOR.—As soon
24 as practicable after the date on which the
25 Secretary receives an application under

1 subparagraph (A), the Secretary shall sub-
2 mit the application to the Secretary of the
3 Interior for review.

4 (ii) REVIEW BY SECRETARY OF THE
5 INTERIOR.—

6 (I) REVIEW.—As soon as prac-
7 ticable after the date of receipt of an
8 application by the Secretary under
9 clause (i), the Secretary of the Inte-
10 rior shall conduct a review of the ap-
11 plication to determine whether—

12 (aa) the eligible public entity
13 is implementing a habitat con-
14 servation plan that has been ap-
15 proved by the Secretary of the
16 Interior under section 10 of the
17 Endangered Species Act of 1973
18 (16 U.S.C. 1539);

19 (bb) the habitat acquisition
20 program of the eligible public en-
21 tity would very likely be com-
22 pleted; and

23 (cc) the eligible public entity
24 has adopted a complementary
25 plan for sustainable infrastruc-

1 ture development that provides
2 for the mitigation of environ-
3 mental impacts.

4 (II) REPORT TO SECRETARY.—

5 Not later than 60 days after the date
6 on which the Secretary of the Interior
7 receives an application under sub-
8 clause (I), the Secretary of the Inte-
9 rior shall submit to the Secretary a
10 report that contains—

11 (aa) an assessment of each
12 factor described in subclause (I);
13 and

14 (bb) a recommendation re-
15 garding the approval or dis-
16 approval of a loan or loan guar-
17 antee to the eligible public entity
18 that is the subject of the applica-
19 tion.

20 (III) CONSULTATION WITH SEC-

21 RETARY OF COMMERCE.—To the ex-
22 tent that the Secretary of the Interior
23 considers to be appropriate to carry
24 out this clause, the Secretary of the

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Interior may consult with the Secretary of Commerce.

(iii) APPROVAL BY SECRETARY.—

(I) IN GENERAL.—Not later than 120 days after receipt of an application under subparagraph (A), the Secretary shall approve or disapprove the application.

(II) FACTORS.—In approving or disapproving an application of an eligible public entity under subclause (I), the Secretary may consider—

(aa) whether the financial plan of the eligible public entity for habitat acquisition is sound and sustainable;

(bb) whether the eligible public entity has the ability to repay a loan or meet the terms of a loan guarantee under the program;

(cc) any factor that the Secretary determines to be appropriate; and

1 (dd) the recommendation of
2 the Secretary of the Interior.

3 (III) PREFERENCE.—In approv-
4 ing or disapproving applications of eli-
5 gible public entities under subclause
6 (I), the Secretary shall give preference
7 to eligible public entities located in
8 biologically rich regions in which rapid
9 growth and development threaten suc-
10 cessful implementation of approved
11 habitat conservation plans, as deter-
12 mined by the Secretary in cooperation
13 with the Secretary of the Interior.

14 (C) ADMINISTRATION OF LOANS AND LOAN
15 GUARANTEES.—

16 (i) REPORT TO SECRETARY OF THE
17 INTERIOR.—Not later than 60 days after
18 the date on which the Secretary approves
19 or disapproves an application under sub-
20 paragraph (B)(iii), the Secretary shall sub-
21 mit to the Secretary of the Interior a re-
22 port that contains the decision of the Sec-
23 retary to approve or disapprove the appli-
24 cation.

1 (ii) DUTY OF SECRETARY.—As soon
2 as practicable after the date on which the
3 Secretary approves an application under
4 subparagraph (B)(iii), the Secretary
5 shall—

6 (I) establish the loan or loan
7 guarantee with respect to the eligible
8 public entity that is the subject of the
9 application (including such terms and
10 conditions as the Secretary may pre-
11 scribe); and

12 (II) carry out the administration
13 of the loan or loan guarantee.

14 (c) AUTHORIZATION OF APPROPRIATIONS.—There
15 are authorized to be appropriated to the Secretary to carry
16 out this section such sums as are necessary.

17 (d) TERMINATION OF AUTHORITY.—The authority
18 under this section shall terminate on the date that is 10
19 years after the date of enactment of this Act.

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