

RESOLUTION NO. 2023-172

A RESOLUTION OF THE BOARD OF SUPERVISORS ACTING AS THE GOVERNING BOARD FOR SAN BERNARDINO COUNTY, BOARD GOVERNED COUNTY SERVICE AREAS AND SAN BERNARDINO COUNTY FLOOD CONTROL DISTRICT REGARDING SAN BERNARDINO COUNTY REGIONAL CONSERVATION INVESTMENT STRATEGY STATEMENT OF QUALIFICATION AND LIMITATION OF USE PRIOR TO SUBMITTAL TO THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

On Tuesday, September 26, 2023, on motion of Supervisor Joe Baca, Jr., duly seconded by Supervisor Armendarez and carried, the following resolution is adopted by the Board of Supervisors acting as the governing board for San Bernardino County, Board Governed County Service Areas and San Bernardino County Flood Control District (collectively referred to as "BOARDS"), State of California.

WHEREAS, on October 4, 2016, the Board of Supervisors ("BOARD"), acting as the governing board of San Bernardino County ("COUNTY"), adopted Resolution No. 2016-189, through which it authorized the COUNTY to participate in efforts to investigate and potentially fashion a Regional Conservation Investment Strategy (RCIS) pertaining to resource and habitat conservation in various places throughout the COUNTY; and

WHEREAS, in adopting Resolution No. 2016-189, the BOARD emphasized that any resulting RCIS would be a voluntary, non-binding tool, would not compromise local land use jurisdiction, control, or budgets, and would not replace or overrule existing federal or state environmental regulations; and

WHEREAS, in the intervening years at the request of and acting on behalf of the COUNTY, the San Bernardino County Transportation Authority ("SBCTA") took the lead in both contracting with the Wildlife Conservation Board and working with interested parties to prepare a final draft RCIS for formal submittal to the California Department of Fish and Wildlife ("CDFW") for the latter's approval consistent with the requirements of Fish and Game Code Sections 1850-1860; and

WHEREAS, SBCTA will soon submit a resulting final draft RCIS for CDFW's approval; and

WHEREAS, the BOARDS, acting in its capacity for the COUNTY, the Board Governed Service Areas ("COUNTY SERVICE AREAS") and San Bernardino County Flood Control District ("DISTRICT"), desire to clarify certain aspects of the BOARDS intention in supporting the RCIS development process and provide supportive direction, qualification and findings. All further references to COUNTY and COUNTY SERVICES AREAS shall collectively be referred to as "COUNTY".

NOW, THEREFORE, BE IT RESOLVED by the BOARDS, as follows:

1. Authorizes the completion of the RCIS by SBCTA and the formal submission to CDFW in ongoing reliance on State law governing regional conservation investment strategies (Fish and Game Code Section 1850-1860), which provide, in pertinent part, that regional conservation investment strategies shall not affect the authority or discretion of any public agency and shall not be binding upon public agencies; that regional conservation investment strategies are intended to provide scientific information for the consideration of public agencies; and, that nothing in any provision of State law requires any public agency to adopt, implement, or otherwise adhere to a regional conservation investment.
2. Recognizes that the RCIS is based on a landscape-scale analysis, and that specific numerical targets in the RCIS may not be appropriate to apply to the analysis of individual land use projects or in connection with jurisdictional planning.

3. Find that the RCIS conservation goals shall not be interpreted as superseding local control or land use prerogatives of the COUNTY or cities within the region, and that the RCIS boundaries, stated conservations goals and implied conservation and habitat enhancement actions shall not require the COUNTY or cities' land use policies, regulations, approvals and plans to be consistent with the RCIS.
4. The BOARD, acting in its capacity for the DISTRICT, also finds that RCIS shall not plan for use of DISTRICT property. As set forth in the California Water Code Appendix section 43-1 et seq., DISTRICT property is prioritized for public safety purposes, i.e., the diversion and retention of floodwaters to protect life and property and is not available for conservation outside of the needs of the DISTRICT for mitigation as required for environmental permitting.
5. Find that the RCIS shall not constitute a plan, policy or program adopted by or made applicable to the COUNTY in relation to the California Environmental Quality Act ("CEQA") (Public Resources Code Section 21000-21189.3), or the regulations that implement CECQ (Title 14, California Code of Regulations Sections 15000-15387) ("CEQA Regulations"), including, without limitation, CEQA Guidelines Appendix G, Sections II (Agriculture and Forestry Resources), IV (Biological Resources), VIII (Greenhouse Gas Emissions), XI (Land Use and Planning), XVI (Recreation) and XX (Wildfire).
6. Find that the approval or existence of the RCIS is not intended to, and does not, create or give rise to any cause of action in any judicial proceeding, including, but not limited to, a CEQA lawsuit, based on an allegation that a given proposed project or plan is or may be inconsistent with the RCIS.
7. Find the RCIS shall not trigger conservation of vegetation that does not currently require mitigation under CEQA by the lead agency, including, but not limited to, desert scrub, transitional scrub/chaparral/woodland and non-native grasslands that do not support special status, threatened or endangered species. The BOARDS recognizes that 583,527 acres of the 621,818 RCIS conservation acreage recommendation for privately held lands is made up of these three vegetation types according to the January 2022 RCIS draft, Table 3-7.
8. Find that the RCIS' conservation goals are not intended to diminish or supersede important societal goals for the approval of new housing projects, reshaping jurisdictional housing elements as needed from time to time, and facilitating the production of additional housing supply (including the provision of new infrastructure needed in the facilitation of such new housing), all consistent with the State Housing Law and local general plans.
9. Find that the approval or existence of the RCIS is not intended to provide a legal basis to challenge, sue, stop, limit, or condition the approval of any land use plan, policy or project within the COUNTY's jurisdiction.
10. Urge the representatives who are appointed to the governing body of SBCTA to propose and support a similar resolution of that body concerning the RCIS.

PASSED AND ADOPTED by the Board of Supervisors of the BOARDS, State of California, by the following vote:

AYES: SUPERVISORS: Col. Paul Cook (Ret.), Jesse Armendarez, Dawn Rowe,
Curt Hagman, Joe Baca, Jr.

NOES: SUPERVISORS: None

ABSENT: SUPERVISORS: None

STATE OF CALIFORNIA)
)
SAN BERNARDINO COUNTY) ss.

I, **LYNNA MONELL**, Clerk of the Board of Supervisors of San Bernardino County, State of California, hereby certify the foregoing to be a full, true and correct copy of the record of the action taken by the Board of Supervisors, by vote of the members present, as the same appears in the Official Minutes of said Board at its meeting of September 26, 2023. Item #82 JLL

LYNNA MONELL
Clerk of the Board of Supervisors
By _____ Deputy
  

