



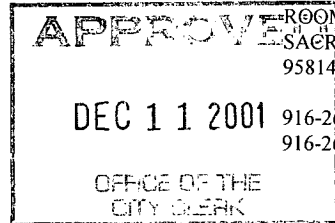
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PLANNING AND BUILDING
DEPARTMENT

CITY OF SACRAMENTO
CALIFORNIA

NORTH NATOMAS UNIT
1231 I STREET

CAROL SHEARLY
NATOMAS MANAGER



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November 29, 2001

City Council
Sacramento, California

Honorable Members in Session:

SUBJECT: Authorization to Submit Applications for Incidental Take Permits to the US Fish and Wildlife Service and the California Department of Fish and Game for the Natomas Basin Habitat Conservation Plan and Implementation Agreement

LOCATION AND COUNCIL DISTRICT: North and South Natomas, District 1

RECOMMENDATION: Staff recommends that Council approve the attached resolution directing the City Manager to submit applications to the USFWS and CDFG for Incidental Take Permits.

CONTACT PERSON: Carol Shearly, Natomas Manager, 264-5893

FOR COUNCIL MEETING OF: December 11, 2001

SUMMARY: In order to obtain Incidental Take Permits from USFWS and CDFG for urban development and other covered activities that may result in incidental take of covered species in the Natomas Basin, the City of Sacramento and other permittees must submit applications at the appropriate time. The attached resolution directs the City Manager to submit the applications at such a time.

COMMITTEE/COMMISSION ACTION: None

BACKGROUND: Incidental Take Permits (ITPs) for urban development within the City portion of the Natomas Basin were issued by USFWS and CDFG to the City on December 31, 1997. In February 1999, National Wildlife Federation et. al. filed a federal lawsuit against the Secretary of the Interior challenging the USFWS's decision to issue the ITP to the City. On August 15, 2000, and January 26, 2001, Judge David Levy issued Orders indicating that the federal ITP was invalid.

Since then, the City has been working with the wildlife agencies and other potential permittees to revise the Natomas Basin Habitat Conservation Plan (HCP) to address the concerns raised by the judge in his orders. On November 14, 2000, the City hired CH2MHill to complete the HCP Environmental Impact Report/ Environmental Impact Statement (EIR/ EIS). In order to reinstate the ITP, the City must submit an application for an ITP, including the revised HCP and Implementation Agreement (IA) and complete the EIR/ EIS.

The City has been working with other permittees to create as regional an approach to the HCP as

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possible. Other permittees joining the City in their pursuit of incidental take coverage are Sutter County, Reclamation District 1000 (RD1000), and Natomas Central Mutual Water Company (Natomas Mutual). Each of the permits will be severable. It is anticipated that Sutter, RD1000 and Natomas Mutual are seeking approval from their boards to submit applications for Incidental Take Permits near the same time.

By this resolution, Council is not committing the City to adopt the HCP or execute the IA. Rather, the City is committing only to the consideration of adoption at a later date, and only after appropriate environmental review has been conducted. Staff will return to Council in the next several months seeking adoption of the revised HCP.

Further, time is of the essence. The HCP, IA and the accompanying incidental take permits issued by the wildlife agencies must be approved and in place by spring/ summer of 2002, so that anticipated development in North Natomas can take place in a timely manner.

Therefore, staff is recommending that the City begin the application process.

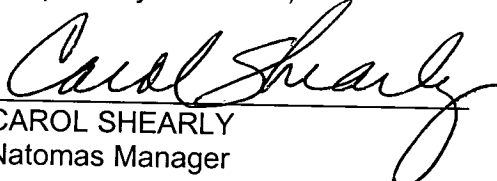
FINANCIAL CONSIDERATIONS: There are no financial impacts resulting from the application.

ENVIRONMENTAL CONSIDERATIONS: By this resolution, Council is not committing the City to adopt the HCP or execute the IA, but rather is committing the City to consider adoption at a future date, and only after appropriate CEQA/NEPA environmental review. CH2MHill is currently under contract with the City to prepare the EIR/ EIS for the HCP, IA and ITP applications.

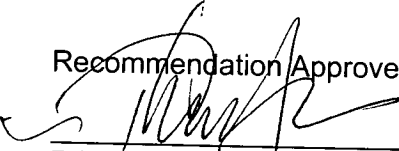
POLICY CONSIDERATIONS: Submitting an application for an ITP and ultimately adopting the Natomas Basin HCP is consistent with City policy because: 1) flood protection for the South and North Natomas areas requires an HCP as a condition of the Corps 404 Permit; and 2) habitat mitigation is required by the Mitigation Monitoring Plan for the 1994 North Natomas Community Plan for development of land within North Natomas. Submitting an application for an ITP is consistent with two goals of the City's Strategic Plan: 1) Establish and strengthen community and regional partnerships to enhance the quality of life, and 2) Preserve and expand the arts and culture, open space, urban forest, and parks and recreation opportunities.

ESBD: Not applicable to this report.

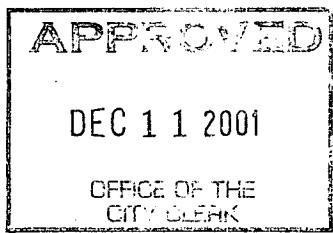
Respectfully submitted,


CAROL SHEARLY
Natomas Manager

Recommendation Approved:


ROBERT P. THOMAS
City Manager

Attachments:
Resolution



RESOLUTION NO. 2001-821

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF _____

A RESOLUTION AUTHORIZING THE CITY MANAGER TO SUBMIT APPLICATIONS FOR INCIDENTAL TAKE PERMITS TO THE UNITED STATES FISH AND WILDLIFE SERVICE AND CALIFORNIA DEPARTMENT OF FISH AND GAME FOR THE NATOMAS BASIN HABITAT CONSERVATION PLAN

WHEREAS:

- A. On May 3, 1994, when the City Council adopted the North Natomas Community Plan Update by Resolution No. 94-259, the Council also certified the Supplemental EIR for that project, and adopted the Mitigation Monitoring Plan developed during the environmental review process. The SEIR identified significant adverse impacts, as a result of the development of the plan area, to the habitat important to the Giant Garter Snake, a federally listed species, and the Swainson's Hawk, a state listed species, as well as other special status species. Among the mitigation measures specified for those impacts was participation by developing landowners in a habitat conservation plan for the Natomas Basin.
- B. The Sacramento Area Flood Control Agency (SAFCA), as a condition of a permit issued to it by the US Army Corps of Engineers in connection with the North Area Local Project, is required to establish a habitat conservation plan for the Natomas Basin.
- C. On August 17, 1997, the City Council adopted the Natomas Basin Habitat Conservation Plan and on December 31, 1997, US Fish and Wildlife Service and California Department of Fish and Game issued incidental take permits to the City of Sacramento.
- D. In February 1999, National Wildlife Federation et. al. filed a federal suit against the Secretary of the Interior challenging the USFWS's decision to issue an incidental take permit to the City. After court hearings in February and March 2000, Judge David Levy issued Orders on August 15, 2000, and January 26, 2001, stating that the City's ITP was invalid.
- E. Subsequent to the Judge's Orders, the City has been working with the wildlife agencies and potential permittees (including Sutter County, Reclamation District 1000, and Natomas Central Mutual Water Company) to revise the Natomas Basin HCP, complete the environmental documents, and obtain an ITP.

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RESOLUTION NO. _____
DATE ADOPTED _____

F. It is important to the City that the processing of the ITP application begin as soon as possible and that incidental take permits be in place during the construction season of 2002.

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SACRAMENTO, that the City Manager is directed to prepare the necessary documentation, including appropriate NEPA and CEQA environmental review, to submit the HCP and the IA together with an application to the federal and state wildlife agencies for incidental take permits, for their consideration and processing.

ATTEST:

MAYOR

CITY CLERK

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RESOLUTION NO. _____
DATE ADOPTED _____