

APPENDIX Y

CITY/USFWS MOU

Appendix G
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75-26

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE CITY OF ROSEVILLE AND
THE UNITED STATES FISH AND WILDLIFE SERVICE**

1. BACKGROUND

- 1.1. On May 25, 1999, the United States Fish and Wildlife Service ("Service") issued a biological opinion under a formal consultation with the Army Corps of Engineers ("Corps") regarding the effects of construction of the Pleasant Grove Wastewater Treatment Plant ("PGWTP") on the federally listed endangered vernal pool tadpole shrimp and the threatened vernal pool fairy shrimp ("vernal pool species") in accordance with section 7 of the federal Endangered Species Act ("ESA"), 16 U.S.C. section 1531 *et seq.*
- 1.2. The Incidental Take Statement ("ITS") attached to the opinion authorized incidental take associated with the direct and indirect effects of the construction of the PGWTP. The ITS, however, did not authorize incidental take resulting from operation of the PGWTP. The PGWTP will have an initial ("Phase I") operating capacity of 12 million gallons per day; and will expand to a maximum daily operating capacity of 21 million gallons per day during Phase II operations.
- 1.3. To minimize incidental take of vernal pool species resulting from the effects of the PGWTP's operation, the City of Roseville ("City"), as part of the proposed action reviewed in the biological opinion, committed to develop and implement an interim conservation strategy and a long term habitat conservation program.
- 1.4. Through this Memorandum of Understanding ("MOU"), the City and the Service (collectively "Parties") seek to accomplish the following objectives consistent with the proposed action as described in the biological opinion and with the reasonable and prudent measures to minimize take contained in the ITS:
 - 1.4.a. To set out a process to develop an interim conservation strategy to minimize the adverse effects on federally listed species of future development serviced by Phase I operations of the PGWTP and located on lands under the City's jurisdiction.

- 1.4.b. To work cooperatively to develop a long-term Habitat Conservation Plan ("HCP") or its equivalent to minimize the effects on federally listed species of future development serviced by Phase II of the PGWTP and located in the City or other participating jurisdictions who commit to participate in the HCP or its equivalent.
 - 1.5. The City is undertaking these efforts with the expectation that a number of environmental, economic and quality of life benefits will accrue to the Roseville community and surrounding areas. Accordingly, the City and the Service intend for this process to be guided by the following goals:
 - 1.5.a. Providing for the conservation of endangered and threatened species and open space while accommodating appropriate economic growth in the region.
 - 1.5.b. Establishing a process that addresses conservation issues on a comprehensive basis, rather than through piecemeal, project-by-project review.
 - 1.5.c. Achieving streamlined review and processing of state and federal permits for species and habitats through the integration of these requirements into local land use decision-making processes.
 - 1.5.d. Providing appropriate regulatory assurances to the City and other participating jurisdictions to foster certainty and predictability in the planning process.

2. DESCRIPTION OF THE PLANNING AREA

- 2.1. The planning area for the interim conservation strategy and the HCP or its equivalent will encompass that portion of the PGWTP service area within the City's boundaries as of the date this MOU is signed. (See map attached as Exhibit 1.) The Parties recognize, however, that the City's boundaries may change in the foreseeable future to include lands annexed through agreement with Placer County ("County"), in which case those annexed areas of the County are intended to be incorporated into the planning area and receive coverage under the City's Incidental Take Permit ("ITP"). Where an ITP has already been issued to the City

that does not include the annexed areas, incidental take may be authorized in the annexed areas either through amendment of the City's ITP or through other authorization under the ESA.

- 2.2. The City further agrees to initiate discussions with other jurisdictions serviced by the PGWTP to encourage their participation in the development of a long-term conservation plan and concurrence in an interim conservation strategy. If surrounding jurisdictions to be serviced by the PGWTP commit to participate in the development of the HCP or its equivalent, the planning area will be modified and the additions to the planning area treated in accordance with section 2.1. Prior to any surrounding jurisdiction receiving wastewater treatment from PGWTP under Phase 2 operations, the Service shall confirm that such jurisdiction has addressed the indirect effects of wastewater treatment provided by the PGWTP within the jurisdiction through one of the following: (1) issuance of an ITP to the jurisdiction for the area to be served by Phase 2 operations; (2) participation by the jurisdiction in an approved regional HCP or its equivalent for areas to be served by Phase 2 operations; or (3) Service concurrence that the indirect effects of Phase 2 operations within the jurisdiction have otherwise been evaluated, minimized, and mitigated in accordance with the ESA.

3. COVERED ACTIVITIES

The City intends that future public works projects, private development and other activities identified in the HCP or its equivalent will be covered under the incidental take authorizations issued by the Service to the City and to any other participating jurisdictions.

- 3.1. The City will undertake a comprehensive conservation planning process that is intended to afford future public works projects, private development and other activities take authorizations under the state and federal endangered species laws for species and activities covered by the plan.
- 3.2. The plan developed by the City is intended to specify covered activities, which will include all development within the PGWTP service area that is under the jurisdiction of the City and/or other participating jurisdictions.
- 3.3. The plan developed by the City is also intended to provide a process by which future land use projects within the PGWTP's service area will be

afforded the use of this process to meet the requirements of federal endangered species laws.

4. FUNDING

- 4.1. The City recognizes that the development and implementation of the interim strategy and the HCP or its equivalent will be funded primarily through locally derived sources.
- 4.2. The Service agrees to cooperate with the City in identifying and securing, where appropriate, federal and state funds earmarked for such purposes. Potential federal funding sources may include: the Service's Cooperative Endangered Species Conservation Fund, "smart growth" initiatives, and land acquisition grants or loans through other federal agencies such as the U.S. Environmental Protection Agency, the Corps, or the Departments of Agriculture or Transportation.
- 4.3. The obligation of the Service to carry out its commitments under this MOU is subject to the availability of appropriated funds.

5. PUBLIC INVOLVEMENT

- 5.1. The City is committed to the development of a conservation strategy through an open and participatory process. The City anticipates that the final HCP or its equivalent will be informed and shaped by the input of the public. In devising an approach to these regulatory requirements, the concerns and interests of the Roseville community must be considered and, where appropriate, accommodated in the plan.
- 5.2. The City, therefore, intends to establish a process to ensure broad public participation in the development of the conservation plans.

6. COMMITMENT OF RESOURCES

- 6.1. The City acknowledges that, as a prospective applicant for incidental take authorizations under federal law, it has the primary responsibility for developing a plan that meets all applicable legal requirements.
- 6.2. Subject to funding and staffing constraints, the Service agrees to provide technical and scientific advice, assistance and information, to assist the City with the timely and efficient development of the HCP or its equivalent.

- 6.3. Subject to funding and staffing constraints, the City and the Service commit to periodic staff level and policy level meetings as appropriate during development of the HCP or its equivalent. The Parties intend that informal discussions will occur on a regular and frequent basis to ensure that progress is being made.
- 6.4. Among other things, these meetings should provide a forum for free and open discussion about issues and approaches to plan development so as to ensure quick resolution or agreement.