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Talking Points
Mr. Tim Perkins, Lincoln County Commissioner
Mr. Doug Carriger, Lincoln County Manager
Dr. Mike Baughman, Facilitator, SLCMSHCP Technical Steering Committee
AB 136
Senate Government Affairs
May 12, 2003

Dispelling the Myths

Myth #1 – AB 136 was requested by Mr. Harvey Whittemore.

In fact, the Board of Lincoln County Commissioners requested AB 136 (BDR 25-398) following discussion and action on an agendized recommendation by the Lincoln County Manager to request the bill during the August 19, 2003 meeting of the Commission.

Myth #2 – AB 136 provides developers with “a way around more difficult environmental regulations...”.

In fact, funds generated and habitat conservation initiatives undertaken within General Improvement Districts as a result of AB 136 will be consistent with U.S. Fish and Wildlife Service issued Section 10 Permits and approved habitat conservation plans developed pursuant to the Endangered Species Act.

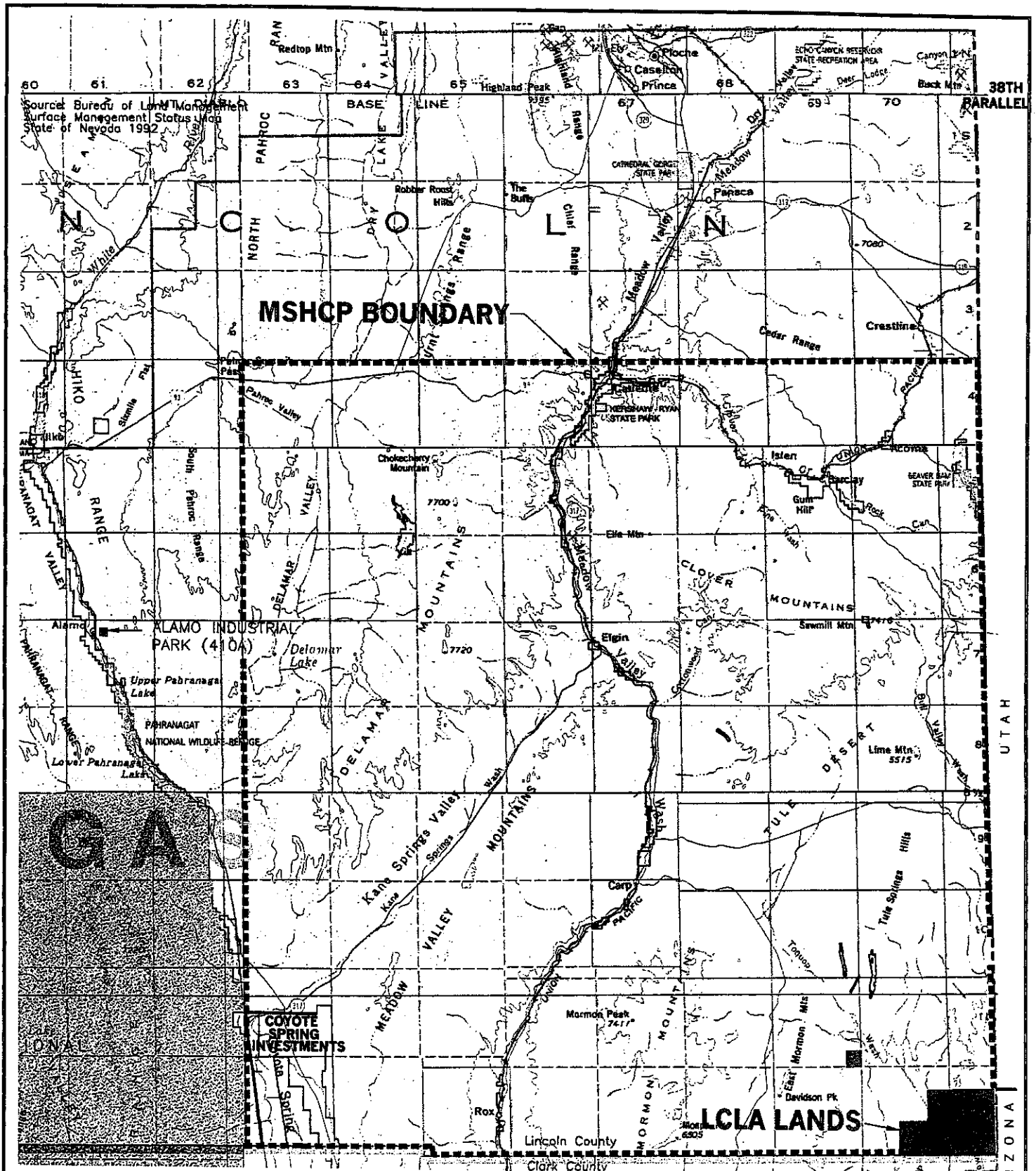
The Rest of The Story

1. Southeastern Lincoln County includes habitat for the Desert Tortoise and the Southwestern Willow Flycatcher, both protected by the U.S. Fish and Wildlife Service (FWS) pursuant to the Endangered Species Act (ESA).
2. Lawful take of Desert Tortoise and Southwestern Willow Flycatcher (including habitat alteration) requires preparation of a habitat conservation plan and issuance by FWS of an incidental take permit.
3. Large planned-unit developments in southeastern Lincoln County must comply with Section 10 of ESA.
4. The Board of Lincoln County Commissioners support development of the Coyote Springs and Lincoln County Land Act projects.

5. Assembly Bill 641 of the 70th Nevada Legislature (Preservation of Endangered and Threatened Wildlife in Certain Rural Counties, Chapter 349, Statutes of Nevada 1999) authorized the Board of County Commissioners of Esmeralda, Lincoln and Nye counties to create an area or zone for the preservation of species or subspecies of wildlife that are threatened with extinction; and to impose and collect a fee for that purpose, as in a land development fee, of not more than \$550/acre.
6. The Board of Lincoln County Commissioners adopted Resolution No. 2000-06 in November of 2000 indicating the County's intent to develop and implement a multi-species habitat conservation plan and to obtain a Section 10 incidental take permit for southeastern Lincoln County thereby facilitating compliance in that area with the ESA.
7. A twenty-two member technical steering committee (including representatives of private landowners, non-governmental organizations and federal, state and local agencies) has met 13 times in the past 28 months to develop the draft Southeastern Lincoln County Multi-species Habitat Conservation Plan (SLCMSHCP).
8. Following a 120-day public review period on the draft SLCMSHCP and a May 5, 2003 public hearing before the Lincoln County Commission, the Commission is scheduled to consider the SLCMSHCP for adoption and submission to the FWS on May 19, 2003.
9. Following completion of an environmental impact statement, the Board of Lincoln County Commissioners anticipates receipt of a Section 10 Incidental Take Permit from the FWS in February of 2004. Co-permittees with Lincoln County will include the City of Mesquite, City of Caliente, Nevada Department of Transportation and Union Pacific Railroad.
10. Initial implementation of the SLCMSHCP is anticipated for March 2004.
11. To comply with the Endangered Species Act, Coyote Springs Investment is developing a project specific multi-species habitat conservation plan on approximately the same schedule as the SLCMSHCP.
12. In determining whether to grant a Section 10 Permit to Lincoln County and Coyote Springs Investment, FWS must conclude that the County and CSI have the administrative and financial capacity to implement the respective habitat conservation plans.
13. AB 136 will provide an important mechanism for funding HCP administration and implementation, thereby assisting Lincoln County to demonstrate the financial viability of the SLCMSHCP.

14. The Board of Lincoln County Commissioners has concluded that establishment of project specific general improvement districts will be the most effective way to develop and maintain community infrastructure and services within the Lincoln County Land Act and Coyote Springs development areas.
15. The Board of Lincoln County Commissioners has concluded that vesting of said general improvement districts with responsibility for funding the initial startup, administration and long-term implementation of respective multi-species habitat conservation plan activities will ensure that related costs and responsibility are shouldered by benefiting communities rather than Lincoln County as a whole and that habitat conservation funding will be effectively focused where impacts to habitat are most likely to occur.
16. Lincoln County has requested AB 136 to expand the authorized responsibilities of general improvement districts found in NRS 318 to include administration and implementation of habitat conservation plans.
17. AB 136 enables an assessment by the general improvement district to finance initial startup of the habitat conservation plan administrative and implementation process and long-term maintenance of habitat conservation projects.
18. Per-acre disturbance fees authorized by NRS 349 (up to \$550/acre) would be used for initial implementation of the habitat conservation plan projects within each general improvement district.
19. Examples of activities which might be undertaken by a general improvement district responsible for administration and implementation of a habitat conservation plan include:
 - Financial management, staffing, record-keeping
 - Public information and education
 - Acquisition and management of real property, including land, as necessary to conserve/enhance key habitat
 - Weed control
 - Law enforcement
 - Installation and maintenance of desert tortoise fencing
 - Pre-disturbance surveys and clearance
 - Desert tortoise predator control
 - Sensitive habitat mapping
 - Restoration of existing, creation of new habitat

The Board of Lincoln County Commissioners encourages the Senate Government Affairs Committee to pass AB 136 today to facilitate the bills' continued progress through the Nevada Legislature.



Source: Bureau of Land Management
 Surface Management Status Map
 State of Nevada 1992

MSHCP BOUNDARY

ALAMO INDUSTRIAL PARK (410A)

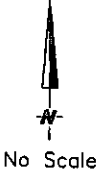
COYOTE SPRING INVESTMENTS

LCLA LANDS

LEGEND

- PRIVATE LANDS
- PUBLIC LANDS
- FEDERAL WILDLIFE REFUGES AND MANAGEMENT AREAS
- STATE LANDS
- LANDS AVAILABLE FOR SALE EXCHANGE OR R&PP PATENTERS

**Southeastern Lincoln Co. MSHCP
 Plan Area**



2/25/03

RESOURCE CONCEPTS, INC.

38TH PARALLEL
UTAH
ARIZONA

PRESERVATION OF ENDANGERED AND THREATENED WILDLIFE IN CERTAIN RURAL COUNTIES

CHAPTER 349, STATUTES OF NEVADA 1999

[Approved May 28, 1999]

(Leadlines for sections have been supplied by the legislative counsel of the State of Nevada)

The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:

Sec. 6. Legislative findings and declaration; authority of certain boards of county commissioners; imposition and administration of fee for construction of structure or grading of land.

1. The legislature hereby finds and declares that:

(a) Esmeralda, Lincoln and Nye counties contain species and subspecies of wildlife that have been or are likely to be declared endangered or threatened pursuant to the federal Endangered Species Act of 1973, as amended;

(b) These counties are not authorized currently to carry out programs for the preservation of endangered or threatened species or subspecies of wildlife;

(c) The declaration of species and subspecies of wildlife in Esmeralda, Lincoln and Nye counties as endangered or threatened will have a serious adverse effect on the economy of those counties and on the lifestyles of their residents; and

(d) Because a general law cannot be made applicable because of the economic and geographical diversity of these rural counties, it is necessary by special act to provide a means by which Esmeralda, Lincoln and Nye counties may promote the protection of their natural resources while simultaneously protecting their human and financial resources.

2. The board of county commissioners of Esmeralda, Lincoln or Nye County, individually or jointly by interlocal agreement, may by ordinance establish, control, manage and operate or provide money for the establishment, control, management and operation of an area or zone for the preservation of a species or subspecies of wildlife that has been declared endangered or threatened pursuant to the federal Endangered Species Act of 1973, as amended. In addition, the board of county commissioners, in cooperation with the responsible state and federal agencies, may encourage in any other manner the preservation of those species or subspecies or any species or subspecies of wildlife in the county which have been determined by the board of county commissioners to be likely to have a significant impact upon the economy and lifestyles of the residents of the county if listed as endangered or threatened, including, without limitation, the expenditure for this purpose of money collected pursuant to subsection 3 or the participation in an agreement made pursuant to NRS 503.589. The board of county commissioners may purchase, sell, exchange or lease real property, personal property, water rights, grazing permits and other interests in such property for this purpose, pursuant to such reasonable regulations as the board of county commissioners may establish. If any such property, rights or other interests are purchased from a nonprofit organization, the board of county commissioners may reimburse the organization for its cost of acquisition, not to exceed its appraised value, and any interest, carrying costs, direct expenses and reasonable overhead charges.

3. The board of county commissioners may, by ordinance, impose a reasonable fee of not more than \$550 per acre on the construction of a structure or the grading of land in the unincorporated areas of the county for the expense of carrying out the provisions of subsection 2. Except as otherwise provided in this subsection, the fee must be collected at the same time and in the same manner as the fee for the issuance of a building permit collected pursuant to NRS 278.580. If a county does not issue building permits in all areas of the county, the fee must be collected before the construction of a structure or the grading of land in an area of the county in which the county does not issue building permits.

4. If a fee is imposed pursuant to subsection 3, the board of county commissioners shall create an enterprise fund exclusively for fees collected pursuant to subsection 3. Any interest or other income earned on the money in the fund, after deducting any applicable charges, must be credited to the fund. The money in the fund may only be used to pay the actual direct costs of the program or programs established pursuant to subsection 2.

(Ch. 349, Stats. 1999 p. 1422)