

**UNITED STATES OF AMERICA
DEPARTMENT OF INTERIOR
BUREAU OF LAND MANAGEMENT**

**AGREEMENT TO INITIATE ASSEMBLED LAND EXCHANGE
BETWEEN THE BUREAU OF LAND MANAGEMENT AND
THE RIVERSIDE COUNTY HABITAT CONSERVATION AGENCY**

This agreement to initiate and complete an assembled land exchange ("Agreement") is made pursuant to the Federal Land Policy and Management Act of 1976, as amended (43 U.S.C. §§ 1701 et seq.), between the Bureau of Land Management ("BLM") on behalf of the United States of America and the Riverside County Habitat Conservation Agency ("RCHCA," hereinafter sometimes referred to as the Proponent. The BLM and the RCHCA are sometimes hereinafter also referred to as a Party or collectively as the Parties.

RECITALS:

Whereas, the RCHCA is a Joint Powers Authority created pursuant to the provisions of Article I, Chapter 5, Division 7, Title I of the Government Code of the State of California relating to the joint exercise of powers common to public agencies; and,

Whereas, the RCHCA was created by and among the County of Riverside and the cities of Riverside, Moreno Valley, City of Murrieta, Hemet, Perris, Lake Elsinore, Corona and Temecula to plan for, acquire, administer, operate and maintain land and facilities for ecosystem conservation and habitat reserves and to implement habitat conservation plans for plants and animals which are either candidates for or listed as Threatened or Endangered pursuant to the terms of the federal Endangered Species Act, 16 U.S.C. 1531 et. seq. ("FESA") and/or the California Endangered Species Act, California Fish and Game Code Section 2050 et.seq. ("CESA"); and,

Whereas, the exchange of lands as contemplated by this Agreement will assist in the implementation of the RCHCA's Habitat Conservation Plan for the Stephens' Kangaroo Rat in Western Riverside County, California ("SKR/HCP"). The Stephens' Kangaroo Rat ("SKR") has been listed as Endangered pursuant to the provisions of FESA and as Threatened pursuant to the provisions of CESA; and,

Whereas, the SKR/HCP sets forth a comprehensive long-term plan for the conservation, preservation, restoration and enhancement of the SKR and its habitat, and is intended to serve as the basis not only for long-term permits issued by and agreements with the United States Fish and Wildlife Service and the California Department of Fish and Game which will allow the incidental take of SKR, but also as the basis for a habitat and ecosystem based conservation plan which may also concurrently provide for the protection for many other species; and,

Whereas, the BLM is an agency of the Department of the Interior of the United States authorized and empowered by Congress to manage over 14 million acres of land owned by the United States within the State of California; and,

Whereas, BLM is responsible for conserving and protecting the biological and natural resources located upon the public lands, including animal and plant species and the habitats which support them; and,

Whereas, the exchange of lands contemplated by this Agreement also implements portions of the BLM's Resource Management Plan ("RMP") for the public lands it manages in western Riverside County, as well as portions of San Bernardino, San Diego, Orange and Los Angeles counties; and,

Whereas, the RMP has been prepared to guide management of these lands with two primary objectives:

1. To address the opportunities to manage the sensitive resources and open space values of these lands and to balance the protection of these resources with potential uses such as recreation and mineral development; and,
2. To improve management effectiveness and efficiency through a consolidation of scattered land ownership patterns; and,

Whereas, the RMP further provides that the BLM shall endeavor to enter into cooperative partnerships with local governments to provide open space and habitat preservation and recreational opportunities; and,

Whereas, the RMP has identified certain of its lands which may be disposed of for the purpose of acquiring other land to be managed as wildlife reserves pursuant to the SKR/HCP; and,

Whereas, implementation of this Agreement will thus fulfill significant goals of both the BLM and the RCHCA:

1. By conveying the "Selected Lands" to the RCHCA, BLM will divest itself of title to lands which are, by and large, scattered parcels, not adjacent to significant BLM holdings and thus difficult to manage; by acquiring the "Offered Lands" currently owned by the RCHCA, as hereinafter described, BLM will be able to consolidate its land ownership in western Riverside County which will facilitate effective operation and management thereof; and,
2. By conveying the Offered Lands to BLM, RCHCA will assure the effective management thereof by BLM; furthermore, by acquiring the "Selected Lands" currently owned by the United States of America and administered by the BLM, as hereinafter described, RCHCA will be able to sell and exchange those Selected Lands which have marginal habitat and conservation value and use the proceeds thereof to acquire additional SKR habitat to meet its conservation goals as set forth in the SKR/HCP; and, A-2

Whereas, the RCHCA hereby certifies that it has legal title or control of the Offered Lands and has the ability to convey title to such lands and that it is a legal entity subject to the laws of the United States and the State of California; and,

Whereas, BLM hereby certifies that it has legal title or control of the Selected Lands and has the ability to convey title to such lands; and,

Whereas, each of the Parties desire to complete an exchange of lands as hereinafter described and to establish certain terms and conditions of the exchange.

NOW THEREFORE, the Parties do hereby agree as follows:

1. DESCRIPTION OF LANDS OR INTEREST IN LANDS BEING CONSIDERED FOR EXCHANGE.

The Proponent agrees to convey to BLM the non-Federal lands as described in attached Exhibit A subject only to the reservations and exceptions shown thereon and acceptable to the United States Department of Justice Title Standards.

BLM agrees to convey to the Proponent or another legal entity designated by the Proponent, the Federal lands as described in attached Exhibit B, subject only to the reservations and exceptions shown thereon, or required by law.

All conveyances shall include all of the parties interest in the lands, including but not limited to minerals, timber, grazing use, and water rights, unless those interests are specifically reserved and shown on Exhibits A and B.

2. EXCHANGE PROCESSING RESPONSIBILITIES.

Each party will provide survey plats, maps, etc, as appropriate to aid in the identification of the lands to be exchanged.

The Proponent shall be responsible for the following items:

1. Providing preliminary title evidence.
2. Arranging for appraisals of the Federal and non-Federal lands, consistent with 43 CFR 2201.3 to be completed by an appraiser under contract to BLM. Appraisals will be completed in stages based on the priorities agreed upon by the parties.
3. Providing the following studies, reports or clearances on the Federal lands:
 - a. Mineral potential
 - b. Cultural resources
 - c. Biological resources, including biological assessments
4. Providing documentation regarding the qualifications of any individuals designated to receive patent to the Federal lands.
5. Contributing funds to the BLM to pay exchange processing costs in the absence of a specific federal appropriation to pay such costs. Estimated 1996 costs: \$40,000. A-3

The BLM will be responsible for the following processing steps:

1. Segregating the public lands.
2. Preparing and publishing the Notice of Exchange Proposal (NOEP).
3. Adjudicating the public land records for mining claims, withdrawals, classifications, authorizations, trespasses; and taking actions, when feasible, to allow disposal of the public lands.

4. Consulting with U.S. Fish & Wildlife Service and the California Department of Fish & Game regarding the exchange of lands.
5. Preparing the Environmental Assessment for the exchange.
6. Preparing and publishing the Notice of Decision (NOD).
7. Drafting escrow instructions and all documents of conveyances.
8. Maintaining a ledger account tracking the value of lands exchanged.

3. HAZARDOUS SUBSTANCES

Each Party to this Agreement hereby declares that, with one exception, to their knowledge there have been no known or suspected release, storage, or disposal of hazardous substances on the Federal or non-Federal lands involved in this exchange. The proponent will provide documentation regarding remediation on one parcel of non-Federal lands. BLM will take whatever steps necessary to determine if hazardous substances are present on the lands involved in this exchange.

4. PHYSICAL ACCESS, RIGHT TO ENTER

Each of the Parties hereby grants permission to the other Party to enter and physically examine the exchange lands. Such examination shall be by non-surface disturbing methods.

5. RELOCATION

The Proponent certifies there are no tenants occupying the non-Federal lands. No relocation benefits are required under 49 C.F.R. § 24.101.

6. COMPENSATION FOR ASSUMPTION OF COSTS

The Parties agree to share the costs of processing this exchange, with the mutual goal of funding future habitat acquisition by the RCHCA from the sale of Federal lands conveyed to RCHCA. BLM agrees, to the maximum extent permitted, consistent with 43 CFR 2201.1-3 and 2201.6, to compensate the Proponent for completing reports on the federal lands necessary to the exchange, including but not limited to appraisal reports, cultural resource reports, biological resource reports, and mineral potential reports. Funds contributed by the Proponent, and used by BLM to pay federal exchange processing costs, shall also be subject to compensation as described above. BLM will compensate the Proponent for these costs by conveying Federal lands equal in value to the non-Federal lands plus the approved assumed costs.

7. ASSEMBLED LAND EXCHANGE.

The Parties may add or delete lands to this agreement at any time. The BLM and the Proponent seek to publish and distribute a Notice of Decision (NOD) approving the exchange of the bulk of the Federal and non-Federal lands listed in Exhibits A and B. This will enable the Proponent to market the Federal lands without the uncertainties of the exchange process.

Federal lands which are not immediately available for disposal due to mining claims, withdrawals etc." may not be included in the initial NOD. These Federal lands should be addressed in the NOEP and environmental assessment and may be added to any subsequent NOD when the lands become available for disposal.

Subsequent to the NOD, the BLM and the Proponent will enter into individual escrow transactions to transfer the Federal lands to the Proponent or the Proponent's nominee and transfer the non-Federal lands to BLM. BLM will maintain a ledger account to track the values of this assembled land exchange. The ledger account shall be updated after each escrow transaction.

The exchange will be done in phases, along the following tentative schedule:

1. Publication of the initial NOEP (December, 1995).
2. Prepare necessary reports (December 1995-April 1996).
3. Publication of the initial NOD (May 1996).
4. Close first escrow transaction (August, 1996).

In accordance with 43 CFR 2201.1, the initial and cumulative difference in value between the Federal lands and non-Federal lands conveyed, as reflected in the ledger account, may not exceed 25% of the total value of the federal lands conveyed. The ledger account must be balanced with land and/or money at least every three years.

8. CLOSING INDIVIDUAL ESCROWS

The Proponent and the BLM shall jointly agree on the Federal and non-Federal lands to be part of individual escrow transactions, based on the marketability of the Federal lands and the priority of acquisition of the non-Federal lands.

Title to the Federal lands and non-Federal lands will be transferred simultaneously through escrow procedures with a mutually acceptable title company. BLM will obtain binders or commitments to title insurance and pro-forma title insurance policies, before entering escrow. Escrow instructions will be prepared by the BLM and reviewed and executed by the BLM and the Proponent.

Individual escrow transaction will not be initiated until at least 60 days after the publication of a favorable Notice of Decision for the exchange and only if no adverse comments have been received.

The Proponent shall pay all recording and escrow fees, including the cost of an acceptable title insurance policy to the offered lands. The Proponent may also procure title insurance to the Federal lands at its own expense.

9. AMENDMENTS

This Agreement may be amended at any time upon written agreement of the Parties.

10. BINDING EFFECT

Performance by the United States of the terms of this agreement is dependent on the availability of appropriated funds. This agreement does not legally bind any party to proceed with processing or to consummate the proposed exchange, or to reimburse or pay damages to any party to this proposed exchange, or anyone doing business with any such party.

Completion of any exchange transaction envisioned under this agreement is subject to the provisions of 43 CFR Part 4, The Department of Interior Hearings and Appeals Procedures, and in the event of a protest or appeal, is contingent upon final disposition of that protest or appeal.

IN WITNESS WHEREOF, the Parties have executed this Agreement this 14th day of December, 1995.

RIVERSIDE COUNTY HABITAT CONSERVATION AGENCY	BUREAU OF LAND MANAGEMENT
By: <u>[Signature]</u>	By: <u>Ed Hastey</u> Ed Hastey
Its: <u>Executive Director</u>	Its: <u>California State Director</u>

IN WITNESS WHEREOF, the Parties have executed this Agreement this 14th day of December, 1995.
RIVERSIDE COUNTY HABITAT CONSERVATION AGENCY BUREAU OF LAND MANAGEMENT ENTRY By:
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EXHIBIT A: RCHCA LANDS IN EXCHANGE CACA 35595 WITHIN LAKE MATHEWS CORE RESERVE LANDS DESCRIBED BY ASSESSOR PARCEL # ON ATTACHED PAGES.

EXHIBIT B: FEDERAL LANDS IN EXCHANGE CACA 35595.

EXHIBIT C: BLM PARCELS IDENTIFIED FOR USE IN THE SKR HCP.