

**Otay Ranch Preserve Owner Manager (POM) Policy
regarding the
Placement of Infrastructure Facilities
within the
Otay Ranch Preserve**

September 30, 2009

Amended by the POM Policy Committee on 10/15/09

**Approved by the POM Policy Committee on 10/15/09.
Motion to approve by Councilmember Pamela Bensoussan.
Motion seconded by Supervisor Greg Cox.
Motion Carried 2/0.**

Recommendation:

Approve the Otay Ranch Preserve Owner Manager (POM) Policy regarding the placement of infrastructure facilities within the Otay Ranch Preserve, which includes the following:

- A. Direct POM staff to prepare corresponding amendments to the RMP2 and Joint Powers Agreement (JPA) in accordance with the recommendation provided by the mediator, Honorable Robert E. May (dated April 21, 2009). The amendments to the RMP2 and JPA shall be presented to the County Board of Supervisors and the Chula Vista City Council for consideration and adoption;
- B. Approve infrastructure language to be included in those conveyance documents that are pending and future acceptance by the POM due to matters related to future infrastructure; and
- C. Approve the POM process for commenting on the Placement of Infrastructure Facilities within the Otay Ranch Preserve.

Purpose:

The Otay Ranch General Development Plan/Subregional Plan (GDP/SRP), Otay Ranch Resource Management Plans (RMP, Phases 1 and 2), the County of San Diego's South County Multiple Species Conservation Program (MSCP) Subarea Plan and the City of Chula Vista's MSCP Subarea Plan acknowledge and recognize that infrastructure facilities may be placed within the Otay Ranch Preserve. Pursuant to the RMPs, "*infrastructure facility*" includes a road, sewage, water, reclaimed water, or urban runoff facility. The siting of infrastructure facilities within the Otay Ranch Preserve must comply with all criteria set forth within the Otay Ranch GDP/SRP, RMPs, and the County and the City's respective MSCP Subarea Plans.

A. Implement Mediator's Recommendation:

The City and County participated in a mediation session held in April 2009. Following the mediation, the mediator, Honorable Robert E. May, provided the following recommendation (dated April 21, 2009):

"The Mediator would recommend that the JPA and any related policy documents be amended to allow the respective entities to control the siting of future facilities on

Preserve land, which is within the respective boundaries. However, any decision made should occur only after requesting, receiving, and considering any recommendation from POM.”

At the last Policy Committee meeting, POM staff was directed to implement the mediator’s recommendation as a part of the RMP2 update. This policy ensures the Phase 2 RMP and Otay Ranch Joint Powers Agreement will be updated to incorporate the language set forth below and clarify the role of the POM in the siting of the future infrastructure. POM staff anticipates bringing these documents forward for the County Board of Supervisors (County Board) and Chula Vista City Council (City Council) consideration by Spring 2010.

B. Infrastructure Language:

Per Phase 2 RMP, open space conveyance obligations have been offered to the County of San Diego and City of Chula Vista within the Otay Ranch Preserve. Some of the conveyance documents included language reserving easements for the siting of infrastructure. This policy is intended to clarify the language to be included in conveyance documents.

Pending and future conveyance documents offering open space land to the County of San Diego and the City of Chula Vista in accordance with a conveyance obligation per the Otay Ranch RMP Phase 2 shall include the following provision:

“Granting unto the [(City of Chula Vista) or (County of San Diego)] an easement for infrastructure facilities (“Facilities”). This easement includes the right, but not the obligation, to construct, install, maintain, repair, and reconstruct the Facilities, and an easement for ingress and egress over the property conveyed hereby to the extent reasonably necessary to hook into existing infrastructure facilities and to effect any such construction, installation, maintenance, repair, or reconstruction of the Facilities. This easement, when conveyed and transferred to the [(City) or (County)], shall be appurtenant to the real property owned by the Grantor as described in the instrument conveying this easement. Prior to approving the siting of Facilities within the easement, the [(City) or (County)] shall request and consider written comments from the Preserve Owner Manager on the proposed location.”

C. POM Process for Commenting on Placement of Infrastructure Facilities

Pursuant to the mediator’s recommendation, the City and County are in agreement that the siting of Facilities within the Otay Ranch Preserve shall be controlled by the jurisdiction within which the Facilities are to be located. However, prior to approving the siting of infrastructure facilities, the jurisdiction in which the facilities are to be located shall request and consider written comments from the POM on the proposed location of the infrastructure facilities. The following process is being presented to the PMT consideration and adoption:

- POM staff of the jurisdiction in which the proposed infrastructure is to be sited shall notify POM staff of the remaining jurisdiction about the proposed the project as soon as reasonably possible.

- If POM staff jointly determines the proposed siting of the infrastructure meets the criteria set forth within the Otay Ranch GDP/SRP, RMPs, and the County and the City's respective MSCP Subarea Plans, POM staff shall provide the comments to the jurisdiction in which the infrastructure is to be located.
- If POM staff cannot come to consensus on the proposed infrastructure location, a special PMT meeting will be scheduled to present the matter to the PMT for resolution.
- If the PMT cannot come to consensus, the PMT shall direct POM staff to prepare separate recommendations to the jurisdiction in which the proposed infrastructure is to be sited. The PMT representatives shall provide their respective POM staff members with specific direction and input to be included in the written siting recommendation, such that another PMT meeting will not be required to approve the recommendation. POM staff shall then forward their respective recommendations to the jurisdiction in which the infrastructure is to be sited.
- This process shall be completed within 45 days of notice of the proposed project, or prior to the close of any applicable public comment period, whichever is longer. If for some reason the process is not completed within 45 days or the end of the public review period, POM staff for each jurisdiction shall, under the direction of the respective PMT representative, submit the jurisdiction's comments to the jurisdiction in which the infrastructure is located.