

DEPARTMENT: Board of Supervisors **BY:** Supervisor Turpin **PHONE:** 966-3222

RECOMMENDED ACTION AND JUSTIFICATION:

Authorize Chairman to sign Resolution asserting legal standing and formally requesting coordination status with all federal and state agencies maintaining jurisdiction over lands and/or resources located within Mariposa County.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

Coordination of planning and management actions is mandated by federal laws governing management. This Resolution asserts Mariposa County's legal standing and formally requests coordination status with all federal and state agencies maintaining jurisdiction over lands and/or resources located within Mariposa County.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

Financial Impact? () Yes (x) No	Current FY Cost: \$	Annual Recurring Cost: \$
Budgeted In Current FY? () Yes () No () Partially Funded		
Amount in Budget: \$ _____		List Attachments, number pages consecutively _____
Additional Funding Needed: \$ _____		Formal Resolution _____
Source: _____		_____
Internal Transfer _____		_____
Unanticipated Revenue _____ 4/5's vote		_____
Transfer Between Funds _____ 4/5's vote		_____
Contingency _____ 4/5's vote		_____
() General () Other		_____

CLERK'S USE ONLY:

Res. No.: 08-595 Ord. No. _____
 Vote - Ayes: 5 Noes: _____
 Absent: _____
 Approved _____
 () Minute Order Attached () No Action Necessary

COUNTY ADMINISTRATIVE OFFICER:

Requested Action Recommended
 No Opinion
 Comments: _____

The foregoing instrument is a correct copy of the original on file in this office.
 Date: _____
 Attest: MARGIE WILLIAMS, Clerk of the Board
 County of Mariposa, State of California
 By: _____
 Deputy

CAO: [Signature]

MARIPOSA COUNTY RESOLUTION NO. 08- 595

**RESOLUTION ASSERTING LEGAL STANDING AND FORMALLY REQUESTING
COORDINATION WITH ALL FEDERAL AND STATE AGENCIES MAINTAINING
JURISDICTION OVER LANDS AND/OR RESOURCES LOCATED WITHIN
MARIPOSA COUNTY**

WHEREAS, Mariposa County is a public unit of local government and a 5-member elected Board of Supervisors serves as its chief governing authority; and

WHEREAS, Mariposa County Board of Supervisors is charged with supervising and protecting the tax base of the county and establishing comprehensive land-use plans outlining present and future authorized uses for all lands and resources situated within the county; and

WHEREAS, Mariposa County is engaged in the land-use planning process for future land uses to serve the welfare of all of the citizens of Mariposa County; and

WHEREAS, Mariposa County is approximately one-half publicly held lands owned, managed, and/or regulated by various federal and state agencies; and

WHEREAS, the citizens of Mariposa County historically earn their livelihood from activities reliant upon agriculture and natural resources and land which produces natural resources is critical to the economy of Mariposa County; and

WHEREAS, the economic base and stability of Mariposa County is largely dependent upon commercial and business activities operated on or adjacent to federally and state owned, managed, and/or regulated lands that include, but are not limited to recreation, tourism, timber harvesting, mining, livestock grazing, and other commercial pursuits; and

WHEREAS, Mariposa County desires to assure that federal and state agencies shall inform the Board of Supervisors of all pending or proposed actions affecting local communities and citizens within Mariposa County and coordinate with the Board of Supervisors in the planning and implementation of those actions; and

WHEREAS, coordination of planning and management actions is mandated by federal laws governing management including the Federal Land Policy and Management Act, 43 US Section 1701, and U.S.C. Section 1712, regarding the coordinate status of a county engaging in the land-use planning process, and requires that the "Secretary of Interior [Secretary] shall...coordinate the land-use inventory, planning, and management activities... with the land-use planning, and management programs of other federal departments and agencies and of the state and local governments within which the lands are located"; and

WHEREAS, the coordination requirements of Section 1712 provide for special involvement by government officials who are engaged in the land-use planning process; and

WHEREAS, Section 1712 sets forth the nature of the coordination required with planning efforts by government officials and subsection (f) of Section 1712 sets forth an additional requirement that the Secretary “shall allow an opportunity for public involvement” (including local government without limiting the coordination requirements of Section 1712 allowing land or resource management or regulatory agencies to simply lumped local government in with special interest groups of citizens or members of the public in general); and

WHEREAS, Section 1712 also provides that the “Secretary shall... assist in resolving, to the extent practical, inconsistencies between federal and non-federal government plans” and gives preference to those counties which are engaging in the planning process over the general public, special interest groups of citizens, and even counties not engaging in a land-use planning program; and

WHEREAS, the requirement of the Secretary “coordinate” land-use inventory, planning, and management activities with local governments, requires the assisting in resolving and inconsistencies to mean that the resolution process takes place during the planning cycle instead of at the end of the planning cycle when the draft federal plan or proposed action is released for public review; and

WHEREAS, Section 1712 further requires that the “Secretary shall... provide for meaningful public involvement of state and local government officials... in the development of land-use programs, land-use regulations, and land-use decisions for public lands”; and, when read in light of the “coordinate” requirement of Section 1712, reasonably contemplates “meaningful involvement” as referring to ongoing consultations and involvement throughout the planning cycle, not merely at the end of the planning cycle; and

WHEREAS, Section 1712 further provides that the Secretary must assure that the federal agency's land-use plan be “consistent with state and local plans” to the maximum extent possible under federal law and the purposes of the Federal Land Policy and Management Act and distinguishes local government officials from members of the general public or special interest groups of citizens; and

WHEREAS, the Environmental Protection Agency, charged with administration and implementation of the National Environmental Policy Act (NEPA), has issued regulations which require that federal agencies consider the economic impact of their actions and plans on local government such as Mariposa County; and

WHEREAS, NEPA requires federal agencies to consider the impact of their actions on the customs of the people as shown by their beliefs, social forms, and “material traits”, it reasonably follows that NEPA requires federal agencies to consider the impact of their actions on the rural, land and resource oriented citizens of Mariposa County who depend on the “material traits” including recreation, tourism, timber harvesting, mining, livestock grazing, and other commercial pursuits for their economic livelihoods; and

WHEREAS, NEPA requires federal agencies to consider the impact of their actions on the customs, beliefs, and social forms, as well as the “material traits” of the people; and

WHEREAS, it is reasonable to interpret NEPA as requiring federal agencies to consider the impacts of their actions on those traditional and historical and economic practices, including commercial and business activities, which are performed or operated on federally or state managed lands (including, but not limited to recreation, tourism, timber harvesting, mining, livestock grazing, and other commercial pursuits); and

WHEREAS, 42 U.S.C. Section 4331 places upon federal agencies the “continuing responsibility... to use all practicable means, consistent with other considerations of national policy to... preserve important historic, culture, and natural aspects of our national heritage”; and

WHEREAS, Webster's New Collegiate Dictionary (at 277, 1975) defines “culture” as “customary beliefs, social forms, and material traits of a group; the integrated pattern of human behavior passed to succeeding generations”; and

WHEREAS, in 16 U.S.C. Section 1604, the National Forest Management Act, requires the Forest Service to coordinate its planning processes with local government units such as Mariposa County; and

WHEREAS, federal agencies implementing the Endangered Species Act, the Clean Water Act, the Clean Air Act, and the Outdoor Recreation Coordination Act, (16 U.S.C. Section 4601-1 (c) and (d)) are required by Congress to consider local plans and to coordinate and cooperate directly with plans of local government such as Mariposa County; and

WHEREAS, the coordinating provisions referred to in the resolution require the Secretary of Interior to work directly with local government to resolve water resource issues and with regard to recreation uses of the federal lands; and

WHEREAS, the regulations issued by the federal agencies in this resolution are consistent with statutory requirements of coordination and direct cooperation and provide implementation processes for such coordination and direct consideration and communication; and

WHEREAS, the California Constitution has recognized Mariposa County's authority to exercise its local, police and sanitary powers, and the California legislature has recognized and mandated exercise a certain of those powers in specific statutes; and

WHEREAS, the California legislature has mandated in Government Code Section 65300 that each county shall prepare a comprehensive plan, and stated legislative intent in Section 65300.9 that the county planning shall be coordinated with federal and state program activities, and has mandated in Section 65103 that county local plans and programs must be coordinated with plans and programs of other agencies; and

WHEREAS, the California legislature has stated its intent in Section 65070 that preparation of state and regional transportation plans be performed in a cooperative process involving local government; and

WHEREAS, the California legislature has mandated in Section 65040 that the State Office of Planning and Research shall “coordinate, in conjunction with... local agencies: with regard to matters relating to the environmental quality of the state”; and

WHEREAS, in Water Code Sections 8125-8129 the California legislature has placed planning for non-navigable streams within the authority of county supervisors, and since such planning activities must be coordinated with natural resource planning processes of federal and state agencies; and

WHEREAS, in Streets and Highways Code Sections 940-941.2 the California legislature has placed the general supervision, management, and control of county roads and highways -- including closing such roads (Section 901) and removing and preventing encroachment of such roads and highways with counties, and since planning and actions with regard to such roads of any federal or state agency must be coordinated with the county; and

WHEREAS, in Public Resources Code Section 5099.3 the California legislature has mandated coordination by the state with Mariposa County since it is a county having interest in the planning, development, and maintenance of outdoor recreation resources and facilities;


NOW, THEREFORE, BE IT RESOLVED the Board of Supervisors of the County of Mariposa does hereby assert legal standing and formally requests coordination status with all federal and state agencies maintaining jurisdiction over lands and/or resources located within Mariposa County.

BE IT FURTHER RESOLVED that the Clerk of the Board shall also cause copies of this resolution to be sent to the following:

- A. County Administrative Officer
- B. County Counsel
- C. Roads Commissioner
- D. Director Planning Department
- E. Sheriff
- F. Fire Chief
- G. U.S. Senator Barbara Boxer
- H. U.S. Senator Dianne Feinstein
- I. U.S. House of Representative, George Radanovich
- J. Bureau of Land Management, California State Office
- K. Bureau of Land Management, California District Office
- L. Secretary of the Interior, U.S. Department of the Interior
- M. Secretary of Agriculture, U.S. Department of Agriculture
- N. Superintendent, Yosemite National Park
- O. Forest Supervisor, Sierra National Forest
- P. Forest Supervisor, Stanislaus National Forest

PASSED AND ADOPTED this 16th day of December 2008 by the following vote:


AYES: ABORN, TURPIN, BIBBY, FRITZ, PICKARD
NOES: NONE
ABSENT: NONE



LYLE TURPIN, Chair
Mariposa County Board of Supervisors

ATTEST:

APPROVED AS TO FORM:



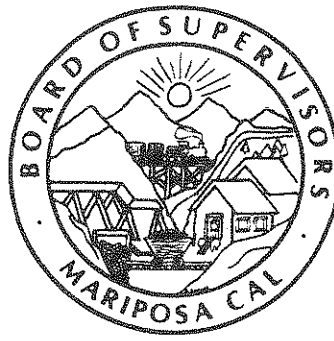
MARGIE WILLIAMS
Clerk of the Board



JEFFREY G. GREEN
Interim County Counsel

Mariposa County Board of Supervisors

District 1 BRAD ABORN
District 2 LYLE TURPIN
District 3 JANET BIBBY
District 4 DIANNE FRITZ
District 5 BOB PICKARD



RICHARD J. BENSON
County Administrative Officer

MARGIE WILLIAMS
Clerk of the Board

P.O. Box 784
MARIPOSA, CALIFORNIA 95338
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1-800-736-1252
FAX (209) 966-5147
www.mariposacounty.org/board

December 30, 2008

To the recipients on the following list:

At its meeting on December 16, 2008, the Mariposa County Board of Supervisors adopted Resolution No. 08-595 asserting legal standing and formally requesting coordination with all federal and state agencies maintaining jurisdiction over lands and/or resources located within Mariposa County.

Enclosed you will find a copy of Resolution No. 08-595 for your reference.

Should you have any questions please contact me at (209) 966-3222.

Sincerely,

Lyle Turpin,
Board of Supervisors Chair

Enclosure

Mariposa County, County Administrative Officer
Mariposa County, County Counsel
Mariposa County, Roads Commissioner
Mariposa County, Planning Department Director
Mariposa County, Sheriff
Mariposa County, Fire Chief
U.S. Senator, Barbara Boxer
U.S. Senator, Dianne Feinstein
U.S. House of Representative, George Radanovich
California Department of Fish and Game

Bureau of Land Management, California State Office
2800 Cottage Way, Sacramento, CA 95825

Bureau of Land Management, California District Office
63 Natoma St., Folsom, CA 95630

Secretary of the Interior, U.S. Department of the Interior
1849 C. Street, N.W., Washington DC 20240

Secretary of Agriculture, U.S. Department of Agriculture
1400 Independence Ave., S.W., Washington, DC 20250

Michael J. Tollefson, Superintendent, Yosemite National Park
P.O. Box 577, Yosemite, CA 95389

Edward C. Cole, Forest Supervisor, Sierra National Forest
1600 Tollhouse Road, Clovis, CA 93611-0532

Susan Skalski, Forest Supervisor, Stanislaus National Forest
19777 Greenley Road, Sonora, CA 95370