

'No surprises' rule for species plan shot down

Judge: Government can't give vows of no development

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The people behind an effort to balance species protection and economic growth in the Coachella Valley say they'll press forward despite a recent court ruling against a major component of their plan.

A federal judge in Washington, D.C., recently ruled the government violated the law when it wrote the rules defining so-called "no surprises" guarantees for habitat conservation plans.

The "no surprises" rule is a major component of the Coachella Valley Multiple Species Habitat Conservation Plan and others like it.

The proposed Coachella Valley plan is essentially an agreement that would set aside certain areas of the region for conservation and other places for development during the next 75 years.

Under the plan, builders would agree to pay a fee to support conservation in exchange for assurances they could work, unfettered, in areas reserved for development.

The judge ruled the government, through the U.S. Fish and Wildlife Service, didn't follow proper procedure when writing the rules that made "no surprises" possible.

"Nature is full of surprises. Builders are going to have to make changes to adjust to them," said Leeona Klippstein, executive director of the Pasadena-based Spirit of the Sage Council, the group whose lawsuit prompted the ruling.

Without the right to add new protection requirements, the government is limiting its ability to respond to unanticipated changes to plant and animal habitats, Klippstein said.

The Fish and Wildlife Service has acknowledged the ruling may complicate future habitat plans, like the one in the Coachella Valley. That's because the service now has to figure out whether it can issue the take permits builders and communities need to do work that might harm endangered species.

"We'll wait for guidance from our Washington office," said Jim Bartel, supervisor of the service's Carlsbad field office. The Carlsbad region is charged with making

permit decisions for the Coachella Valley plan.

"No surprises is clearly important for long (habitat conservation plans)," Bartel said.

Jim Sullivan, one of the organizers behind the Coachella Valley plan, expects work to go forward despite the ruling.

The Coachella Valley plan, which covers 28 species from the desert pupfish to the Peninsular bighorn sheep, has been in the works for about eight years.

Local communities, through the Coachella Valley Association of Governments, recently approved a draft of the plan for public review.

The draft represents compromises from builders, environmentalists and government wildlife agencies.

Sullivan said it would be unproductive to derail the plan while lawyers debate how to accommodate the judicial ruling.

"It wouldn't make any sense to do anything other than what we are doing," Sullivan said. "There is going to be a lot of pressure to deal with this right away."