

# Minutes

South Sacramento Habitat Conservation Plan Steering Committee - April 12, 2007

10:30-12:00 - 700 H Street, 6<sup>th</sup> Floor Training Room 6750

<http://www.saccounty.net/planning/habitat-conservation/overview.html>

<b>Attendee</b>	<b>Affiliation</b>
Alta Tura	Sacramento Audubon
Ardie Zahedani	North State BIA
Bill Cody	Tim Lewis
Bill Shehadeh	Shehadeh Family Trust
Brenna Moorhead	Sheppard Mullin Richter & Hampton LLP/North State BIA
Carmen Lee	SRCSO
Charlotte Mitchell	Sacramento County Farm Bureau
Chris Beale	Resources Law Group/City of Elk Grove
Cheryl Creson	City of Elk Grove
Dan Gifford	California Department of Fish and Game
Debbie Haldeman	Wildlands Inc.
Elisha Back	Dunmore Homes
Forest Halford	Wildlands Inc.
Heather Ferden	SunCal Companies
Jennifer Hogan	California Department of Fish and Game
Jesse Wild	U.S. Fish and Wildlife Service
Jim Ray	MacKay & Soms
John Hodgson	The Hodgson Company
John Hopkins	Institute for Ecological Health
Joyce Hunting	City of Rancho Cordova
Kate Wheatley	Taylor & Whiley
Larry Larsen	Law Office of Gregory D. Hatch
Mark Hanson	SBM Real Estate
Michelle Smira	MMS Strategies
Rich Radmacher	Sacramento County Planning
Rick Balazs	Sacramento County Economic Development
Sam Miller	Lewis Planned Communities
Stan Van Vleck	Ca. & Sacramento Cattlemen
Stephen Miller	Granite Bay Capitol Group
Robert Uram	Sheppard Mullin Richter & Hampton LLP/North State BIA
Taro Echiburu	City of Elk Grove
Vincent King	Sacramento County Planning

## **1. Call to Order and Introductions**

The meeting was called to order by John Hodgson and introductions were made.

## **2. Update on County Board of Supervisors meetings**

John Hodgson, John Hopkins and Alta Tura gave a brief update regarding recent meeting they have had with the Sacramento County Board of Supervisors. They explained that the meetings were intended to 1) inform the Board who is involved in the planning process and the work that has been done & 2) emphasize

the importance of committing the plan to the Department of Environmental Review and Assessment (DERA) to begin the EIR/EIS process. Ardie Zahedani asked if a funding source needed to be identified for the Board to send it to DERA. Mr. Hodgson replied that they did not have to identify a funding source and Rich R. added that the HCP budget had approximately \$500 hundred thousand dollars that could be used to initiate and commence a significant portion of the document. Mr. Hodgson mentioned that he hoped management of the environmental work would be timely. Mr. Hopkins added that it was clear from these meetings that the Supervisors are supportive of moving the plan forward particularly considering that it has been an effort that both the environmental, development and agricultural interests can support.

Mr. Hodgson mentioned that there will be an Economic Sub-committee meeting on Friday April 13<sup>th</sup> at 10:30 and asked those interested in the meeting to contact Vince King with the County. He summarized that the Economic Sub-committee has just begun its work of taking the conservation strategy and assigning monetary costs to the plan. He added that the initial numbers are still too high. They have an economic consultant, ENTRIX, who submitted draft figures that were distributed to the Economic Sub-committee.

### **3. Review of Conservation Strategy Summary**

Rich R. explained that this meeting was intended as an overview of the conservation strategy and that the entire chapter would be distributed in the following week. Rich R. explained that the Biological Sub-committee had been working over the past several years, with experts in their fields, to complete the 41 individual species accounts and 6 habitat accounts. The Conservation strategy pulls from each of those documents to accommodate each habitat and species needs consolidated into one strategy.

Rich reviewed the HCP Study Area, which is approximately 345,000 acres, and explained that the areas covered for take included the city limits of Elk Grove & Rancho Cordova, the unincorporated County and Galt's city limits plus their established SOI. He clarified that the incidental take permit would cover those areas, but that there will also be a need to protect land within the urban development area (UDA). Stan Van Vleck asked if there was a particular requirement from the regulatory agencies to protect inside the UDA. Rich explained that there was an understanding early on in the process that land would have to be protected within the UDA and that the consultant at the time had presented the Steering Committee with the options of preserving 25, 50 or 75 percent of the vernal pool resources inside the UDA. The Steering Committee elected to preserve 50 percent and permit 50 percent for development based in large part on the recommendation of the U.S. Fish and Wildlife Service. Alta Tura added that there are also very strong biological reasons for preserving vernal pools inside the UDA. John Hopkins added that this is also a legal requirement, referring to the USFWS Recovery Plan. He noted a recent court ruling determining that plans and biological opinions cannot jeopardize the recovery of species. He also said that the vernal pools and grasslands inside the UDA are unique and very biologically significant in that many of the covered species may only occur in pools within the UDA. Jesse Wild added that they (USFWS) have direction to preserve more inside the UDA and that the current preservation is considered a compromise.

Forest Halford asked how the SSHCP had addressed existing/proposed preserves and/or mitigation banks. Rich noted that they did analyze where preserves/banks may occur and incorporated them into the overall network of the SSHCP conservation.

Elisha Back asked what the Corps perspective has been on the vernal pool preservation. Rich replied saying that he had presented to the Corps and supplied them with the vernal pool conservation strategy. Thus far they are impressed with the work that has been done, but we will not know when or whether they will be able to issue permits. The Corps are doing additional analysis in their remote sensing lab in Vicksburg

Mississippi, understanding that a permit is the ultimate goal of the program and recognizing positive first steps. John Hopkins noted that one of the consistent messages that has been delivered to the Corps is that the HCP should include all Corps requirements as not to create additional requirements beyond what is presented in the HCP. Multiple folks reiterated the point that the SSHCP should be, in a sense, a 'one stop shopping' for state and federal regulatory permits.

Rich continued to describe the conservation zone system of the SSHCP. He explained that early discussions that had taken place to determine whether or not hard line or soft lines are shown on maps delineating where preserves occur. He explained that hard line maps would not succeed, but that there is a need to direct mitigation into appropriate areas. The solution to this problem was to create a system of conservation zones and develop specific conservation goals for those zones. The SSHCP study area was divided into twelve (12) zones using significant landmarks or features to distinguish boundaries between zones (e.g. Folsom south canal). Several zones were then further subdivided as they may contain particular resources where conservation may need to be more specific. He described the example of zone 1a where a core preserve of at least 81 vernal pool acres must be established.

Rich R. followed to describe the SSHCP Habitat Cover-types map. It is a detailed version of the ground condition. He clarified that the upland areas are mapped with 2004 color photos and that the wetland/vernal pool resources were mapped with 2001 black and white photographs. He also announced that the Habitat Cover-types shape file is now publicly available from the Sacramento County ftp site and that Vince King could provide folks access to the information. It was asked what ground truthing had been done for the mapping. Rich explained that GIC out of Chico had mapped the area and that the vernal pool consultants, John and Josephine Dittes, had gone out to do ground truthing in areas they could access. Corps delineations were also used to compare the mapping and the overall results were rather impressive and accurate.

There were follow up questions concerning the conservation zones and Rich explained that the purpose of the zones was to ensure that conservation occurred across the study area and that it was not funneled into one area. The biological resources within each zone dictate where, within the particular zone, preservation should occur. Cheryl Creson asked for clarification on zones outside the UDA. Rich explained that no take will be permitted in those areas, but there will be measures describing specific conservation that must occur in those zones. This point was reiterated by John Hodgson. It was asked to clarify if a property owner outside the UDA would be covered for take. Concern was expressed that the distinction between inside and outside the UDA, in their interpretation, was not a soft line, but a very hard line. It was asked for clarification of this statement. The gentleman explained that within the UDA you can receive an incidental take permit and outside that line you cannot. Rich R. explained that the concept of hard lines and soft lines applies to where specific preserves may occur, not where take would occur. Hard lines have to be established showing areas where take may be permitted in order to understand and calculate impacts to habitat/species. He clarified that yes there is a hard line for where take will be permitted which includes the County's urban services boundary (USB), Galt's SOI and the City limits of Rancho Cordova and Elk Grove where they may extend beyond the USB.

It was mentioned that the take area currently included the exiting Elk Grove city limits, but did not account for the currently discussed proposal by Elk Grove to expand South of Kammerer Rd. It was expressed by an individual that zone 5 should extend south to include the potential expansion area. Rich explained that the problem with shifting zone 5 was that Elk Grove does not have an approved or even proposed SOI and the extent of urbanization is unknown at this time. Also, if it is identified, it would have to be analyzed for

take, which has not been done. Sam Miller interjected saying that the expansion of the take area was not an insubstantial side conversation and it is a major conversation that is occurring. The facts are that the line was established years ago and since then circumstances have changed. County staff are engaged in this discussion and will await direction on how to proceed. He also noted that how the line is or isn't changed will not be determined by the Steering Committee. Rich followed saying that County management is not supportive of moving the line. Ultimately, direction will be given from County Board and City Council members on how to proceed.

John Hodgson focused the group to understanding the alternatives to the conservation strategy. He expressed appreciation for the increased attendance and that ultimately the group is trying to achieve a situation where there are at least four permit holders, the Cities of Elk Grove, Rancho Cordova, Galt and the unincorporated County. He clarified that this is not a land use authority and that they are trying to develop an HCP that works for everyone. Rich followed to say that staff is aware of issues south of Elk Grove and that it would be foolish not to incorporate an understanding of the situation into the plan. For example, property south of Kammerer road is becoming more expensive, which may preclude it from being viewed by the SSHCP as viable conservation land. Rich also noted that this is a willing seller and willing buyer plan. Property owners that do not wish to enter into conservation agreements do not have to.

Cheryl Creson described a conversation she had had with someone in Riverside, where they had approximately 300,000 acres but only need to protect 154,000 acres. She explained that by targeting more land it may be more easily acquired. Rich followed to say that that is exactly what the Desirable Preserve Areas map does.

John Hopkins added to the discussion regarding Elk Grove's expansion south that it is difficult to analyze take when there is so much uncertainty. The group does not know what LAFCO may approve. He also said that the plan will be amended in the future to address changes in reality. It was asked if the USFWS and CDFG agreed with that view. Jesse Wild noted that this was exactly the purpose of an amendment. Rich added that the County has put in too much time, money and effort to delay the plan one or two years to determine a possible expansion line. Having noted that, he explained that the County is looking at how a possible expansion may affect the SSHCP. He stated that the County does feel that an expansion to include the entire area proposed by Elk Grove would stop the SSHCP. The County is trying to determine how much expansion could be accommodated and still have a viable conservation plan. It was asked if this had to be done before the environmental document is initiated. The answer was that it did not have to be finalized prior to initiating the environmental document. He explained that expansion beyond Eschinger Rd. would not only remove land from the inventory, but increase land area that would need to be mitigated in close proximity. It was asked if, similar to other zones inside the UDA, there could be a specific requirement set forth for an expanded zone 5. Rich replied that was being analyzed. Dan Gifford stepped in to describe, from a broad perspective, that the region is going to mostly grow in the UDA and preserve outside the UDA. He explained that we are stuck preserving vernal pool resources inside the UDA because they do not move. They are unique areas that support threatened and endangered species that cannot move to a new location. Continuing, he noted that the concept of placing Swainson's Hawk, Greater Sandhill Crane and Giant Garter Snake habitat adjacent to urban development is heading in the wrong direction.

Rich began describing the Desirable Preserve Area, which depicts areas where the SSHCP would like to direct mitigation as well as areas that are currently protected. John Hodgson and Rich R. emphasized that mitigation banks are certainly a part of this project. Rich also explained that the current conservation

strategy accommodates approximately 40,000 acres of mitigation land and 12,000 acres of above and beyond mitigation land. The map is an inventory assessment. It is needed to ensure that the measures we set forth in the conservation strategy can be accomplished.

Stan Van Vleck asked if biological consultants would verify that an interested individual's property did in fact have the necessary resources. Rich explained that those requirements would be spelled out in future chapters. Mr. Van Vleck followed saying that when he distributed the maps to his constituents, he assumes there is a way that folks can correct any possible errors on the map. Rich R. said that this is a possibility but that is it important to keep areas shown on the Desirable Preserve Area map as an understanding of inventory, considering that any sale of easement or fee title is dependant on a willing seller. It was asked how certain areas were chosen to be identified on the map and why others may not be. Rich explained that a lot goes into creating the map and he was not prepared to answer the question fully, but used agricultural areas as an example. He continued explaining that key species like Swainson's hawk were used for the analysis of agricultural areas by first identifying soils suitable for growing alfalfa and row crops. These were assumed to be prime and state wide importance farmlands and the NRCS soil index identified suitable soils. Then these areas were buffered and gaps between them filled. The vernal pool areas were simply chosen due to presence of resources. It was asked if the presence or absence of vernal pool species was taken into consideration. Rich replied that distribution data was used, but also acknowledged that reliable species data is limited. John Hodgson asked if the map might understate the ultimate desirable preserve areas or if some areas will be added while some are removed from the map. Rich said that some areas will likely be removed or added as new information becomes available, but stressed the point that the SSHCP needs to focus on maintaining large intact preserve areas linked by corridors. Discussion and explanation of the Rancho Seco and Wilton areas followed and Rich noted that a threshold of twenty acres was also used in identifying desirable preserve areas as smaller parcels are generally more expensive and often times do not provide suitable habitat.

John Hodgson asked about the total size of the desirable preserve areas depicted on the map. Vince King explained that the desirable preserve areas were clipped from the SSHCP cover-types map and compared to the acres that would be permitted via the SSHCP. This was done to ensure the desirable preserve areas captured at least 150% of the acreage need, if not 200-300 percent. Stan Van Vleck voiced an issue that will likely arise. He explained that if an individual was interested in changing the use of their property they may be hindered by having the desirable preserve area designation. He wanted it understood that this was a strong concern for members of his constituency. John Hodgson said that it was important to provide the flexibility in the plan and try to avoid any unintended consequences. Mr. Van Vleck reiterated the point that we need to ensure now and in the implementation of the SSHCP that the identification and commitment of land to conservation remains voluntary. Charlotte Mitchell pointed out that in the chapter there are is a lot of identity of what is needed in order to make the SSHCP work. Rich R. explained that it is a balancing act to provide some assurances to the federal regulatory agencies that the correct thing will be accomplished to achieve the ultimate goal of holding and issuing permits. Jesse Wild noted that regulatory agencies are currently exerting the same pressure on changing land use due to presence of species and that the SSHCP is not necessarily doing a new thing, but in a different and hopefully transparent way. Mr. Van Vleck concurred that a change in land use would trigger an environmental analysis regardless of the SSHCP, but it is the challenge of identifying those areas and then perhaps using that identification to prevent a land use change because the SSHCP has identified it for protection. He also noted that there were some folks in his community that would prefer the desirable preserve area to depict a one to one ratio of mitigation need to supply rather than a two or three to one ratio. He explains that this is due to supply and demand prices as well as the concern of being classified as something an individual may not want. He

emphasized that he felt the only group that is hurt from identifying a large area is the agricultural community. Jesse Wild stated that identifying a larger area would actually reduce the pressure on landowners. Sam Miller interjected noting that the real issue is whether being identified creates a new layer of restriction, if not, then being identified has no significance other than being considered a viable area for mitigation. Rich pointed out that the map was used to assess that land inventory was available and to ensure the SSHCP could accomplish its goals, but did not know if the map would be published at the end of the day.

It was asked if there may be a process whereby an individual may request to be removed from the map. Mr. Van Vleck said that may be an offer that could be made to perhaps relieve any anxiety, but he did not feel many people would elect to remove themselves from the map. Having the option could provide a comfort level with the designation. He explained that it is difficult to get communities to see the benefits of an HCP when their land may be identified for something they may not want.

Cheryl Creson asked if landowners in the agricultural area wanted to develop and the process they would go through. She answered to say that they would first have to be incorporated into the City of Elk Grove to develop and then they would have to mitigate for that development through the SSHCP or another means. Rich R. said he did not know the answer to that question precisely. He explained that theoretically if the plan moved forward as it is today they could do their own HCP or amend the HCP. Cheryl C. stipulated that if the area south of Elk Grove was included in the desirable preserve area and if in the future the City of Elk Grove wanted to incorporate the land they would have to mitigate their impacts and assess how it affects the SSHCP. Jesse Wild explained that the regulatory agencies would be looking at the species in the area whether it's in the SSHCP or not, if it is outside they would look at how those impacts affect the species. This analysis would occur whether or not the area was included inside the HCP. It was asked if there would be a bias in the analysis if one were included in the SSHCP desirable preserve area and wanted to develop. It was noted that there would be CEQA implications as CEQA analyzes how a development affects an existing HCP. Dan Gifford said that he felt it was a mistake to look at the desirable preserve areas as a land use designation or restriction as it has nothing to do with land use. He clarified that the County general plan would outline the restrictions and provisions of land use indifferent to the SSHCP. Stan Van Vleck agreed with Dan, but pointed out that the problem develops when County staff, when studying land use decisions, references the SSHCP and the areas it has identified as important for preservation.

Rich reiterated that at next months meeting we will be reviewing the conservation strategy in more detail. John Hopkins asked if a facilitator may be helpful. Rich R. replied that unfortunately there was not enough time or money available to bring in a facilitator. It was asked if the chapter would include some of the biological justifications for the numbers. Rich explained that section 3, the habitat conservation criteria section, would help address those concerns.

It was asked why the plan includes additional conservation and what objectives it includes. Rich explained that he'd explain that in more detail later once we began review of the conservation strategy, but also noted that the plan had always anticipated being more like an NCCP and preserving additional land. Also, a portion of the above and beyond component was anticipated for accommodating restoration, filling in blanks in the preserve network, and aiding in the recovery of the species as a whole. Jesse Wild noted that it also helps with federal funding. John Hopkins noted that this goes back to decisions the Steering Committee has made. Charlotte Mitchell asked how long the review period may be for Chapter 7. Rich replied that it would be rather significant, perhaps months.

#### **4. Recap Assigned Tasks**

The next Steering Committee meeting will be held on May 10<sup>th</sup> at nine o'clock to discuss chapter seven the Conservation Strategy. (NOTE: the meeting was changed to May 17<sup>th</sup> from 1-4 due to County scheduling conflicts.)