

Minutes

South Sacramento Habitat Conservation Plan Steering Committee - May 17, 2007

1:00-4:00 - 700 H Street, 5th Floor Training Room

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

Attendee	Affiliation
Alta Tura	Sacramento Audubon
Ardie Zahedani	North State BIA
Bob Shattuck	Leannar
Brenna Moorhead	Sheppard Mullin Richter & Hampton LLP/North State BIA
Brigitte Bordenave	Sacramento County Planning
Carmen Lee	Sacramento Regional County Sanitation District
Charlotte Mitchell	Sacramento County Farm Bureau
Cheryl Creson	City of Elk Grove
Dan Gifford	California Department of Fish and Game
Dave Ghirardelli	Sacramento County Waste Management & Recycling
Debbie Haldeman	Wildlands Inc.
Elisha Back	Dunmore Homes
Hal Holland	Westervelt Ecological Services
Heather Ferden	SunCal Companies
Humera Arshad	Sacramento Regional County Sanitation District
Ginger Fodge	Gibson & Skordal LLC
Jae Chung	U.S. Army Corps of Engineers
Jay Coles	Reynen & Bardis Communities
Jesse Wild	U.S. Fish and Wildlife Service
Jim Purcell	Conservation Resources
Jim Ray	MacKay & Soms
John Hodgson	The Hodgson Company
John Hopkins	Institute for Ecological Health
Joyce Hunting	City of Rancho Cordova
Judy Waegell	Waegell Family
Justin Cutler	U.S. Fish and Wildlife Service
Kate Wheatley	Taylor & Whiley
Kathy Dadey	U.S. Army Corps of Engineers
Leighann Moffitt	Sacramento County Planning
Mark Hanson	SBM Real Estate
Michelle Smira	MMS Strategies
Mike DeVereaux	Law Office of Gregory Thatch
Paul Junker	City of Rancho Cordova
Randy Schaber	The Schaber Company
Rich Radmacher	Sacramento County Planning
Rick Balazs	Sacramento County Economic Development
Sam Miller	Lewis Planned Communities
Sean Wirth	SOS Cranes
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 gave a brief update regarding recent meetings he, John Hopkins and Alta Tura had with the Sacramento County Board of Supervisors. He 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 EIS/EIR process. John Hodgson felt that they had received a good reception from the Board members. He explained that the SSHCP would be going to the Board Tuesday June 5th at 3:00 PM. Leighann Moffitt noted that there was a slight chance it would be heard as early as 2:15 depending on the previous item.

John Hodgson explained that the purpose of the Board hearing is to give the Board a brief update, and formally request that the Board initiate the environmental documents for the SSHCP. Rich Radmacher explained the cost of the EIR/EIS. He had budgeted approximately \$750 thousand dollars to complete the EIR/EIS documents. He spoke with staff from Contra Costa and Solano counties who are engaged in or have completed the EIR/EIS process to gain a better understanding of real world cost. Contra Costa County spent a total of \$240 thousand dollars to complete their EIR/EIS and Solano County projects that they will spend approximately \$480 thousand dollars to complete their EIR/EIS. Rich explained that the SSHCP may be a little different due to the fact that we will be incorporating U.S. Army Corps of Engineers (Corps) requirements in anticipation of obtaining 404 permits. Upon consulting the Corps, he was told that the additional costs of integrating the 404 permits were related to the need for an alternatives analysis, which is not required by the Service. This process would add an additional \$25 to \$50 thousand dollars. All told, it is estimated that \$500 to \$600 thousand dollars will be needed to complete the EIR/EIS documents. He also explained that two Section 6 grants have been awarded to the County that provide \$500 thousand dollars for environmental documentation and another \$50 to \$150 thousand has been committed from other sources.

John Hodgson clarified that the U.S. Fish and Wildlife Service will be the lead agency on the NEPA document and the County will be the lead agency on the CEQA document. Leighann later noted that DERA has agreed to begin the review process while the draft SSHCP is being completed. John Hopkins mentioned that Contra Costa County should have a timeline that explains that they began their environmental review as the draft plan was completed. Rich confirmed that he was expecting to receive the actual timeline used by Contra Costa County.

Ardie Zahedani asked to clarify exactly what will be asked on the June 5th Board hearing. John Hodgson clarified that staff will be asking the Board to commence and expedite the environmental review documentation for the SSHCP. They will not be finalizing a cost for the SSHCP EIR/EIS. Ardie asked if there would be discussion as to the scope of the SSHCP. John Hodgson answered that there will not be a discussion as to the scope of the SSHCP. Discussion of the scope of the SSHCP occurred in the Steering Committee as they review the draft chapters. John Hopkins also mentioned that the Board will not be approving anything about the SSHCP in respect to what it may or may not do.

Cheryl Creson broached the concern that Elk Grove has with committing the SSHCP to the environmental documentation phase at this time. She asked if Elk Grove will have the opportunity to have their concerns addressed before or while the EIR/EIS is completed. John Hodgson responded that he felt that the City needs to specifically, ideally in writing, outline its needs. He said that ideally it would be included upfront in the analysis, perhaps as an alternative. He felt that there would be an opportunity. Jesse Wild spoke to this point stating that the Service will be doing a NEPA document and will be noticing in the Federal Register that there is intent to do an EIS for the SSHCP. Then there will be public scoping meetings as well that may cover this issue while it is open for public comment. John Hodgson reiterated that it is important to get in writing exactly what the City of Elk Grove wants addressed. Cheryl explained that there have been recent meetings with the County and from the meetings determined that the Elk Grove City Counsel must define its needs. Leighann pointed out that the current staff report for June 5th recommends removing SACOG's post 2050 Blue Print area south of Elk Grove, shown as vacant urban land, from the SSHCP Desirable Preserve Areas map and not consider that as part of the receiving area. She continued noting that Sacramento County does not intend on studying that area for urbanization in this HCP unless directed otherwise by the County Board.

Taro Echiburu spoke to clarify Elk Grove's position regarding the area south of Kammerer Rd. He stated that the City Council recently directed staff to study the area south of Kammerer Rd. for development. Kammerer Rd is currently the City's southern limit. After Council's direction, City staff approached the County requesting that an area south of Elk Grove be included as a take area for the SSHCP. Otherwise, they feel the SSHCP loses value. He said that this concept has received resistance from the County. He also stated that the City is prepared to do whatever analysis it may take to have the area included and not impact the schedule of the SSHCP. They had not yet determined what amount of work that may require because the ultimate limit of development has not been established by the Elk Grove City Council. However, he felt that regardless of this, they feel it was important to include it in the SSHCP because whether it goes however many miles south of Kammerer Rd., it will go in one direction or another. He said that the City feels it is a mistake, at this time, not to include it in the SSHCP. They recognize, in the context of Chapter 7, there is a statement that areas in the general plans of Sacramento County, Rancho Cordova, Galt, and Elk Grove that are included in the SSHCP. He felt that this was an incorrect statement. He said that they (the City of Elk Grove) are in open disagreement regarding Chapter 7 and the areas that are being covered. Rich R. responded that the area south of Kammerer Rd. is within the County's land use jurisdiction, and the County will be making the decisions as to what may or may not occur there. He continued explaining that the broader issue is not who will pay for this, but it is a timing issue. He has heard from the County Water Resources Department, Department of Fish and Game & U.S. Fish & Wildlife Service that the County, Rancho Cordova, and Elk Grove's water rights depend on completion of the SSHCP. Furthermore, the County water treatment/intake facility due to come on line in 2010/2011 depends on completion of the SSHCP. He continued stating that while we are not CEQA experts in Planning, he has been told that to study the area south of Elk Grove for urbanization in the SSHCP EIR/EIS will significantly bog down the process due to significant public resistance on this project and that the area has not been studied for urbanization in previous projects. He said it was not a matter of funding, but that contracts the County has for Zone 40 water rights and how studying the area affects timing. John Hodgson stepped in explaining that the fact is that this issue will need to be worked out and suggests that the City put something in writing explaining their position. He clarified that the purpose today is to look at the language of Chapter 7. He suggested that the discussion be deferred as it will ultimately be the City and County leaders who must make the decision.

Paul Junker spoke regarding the role the City may have with preparation of the environmental document. He did not wish to enter into the discussion at the meeting, but voiced a desire to meet to discuss the roles of local jurisdictions as permittees in preparing the EIR/EIS. John Hodgson said that his personal view was that the City should be involved in those discussions along with whoever else may be a co-permittees. He said that this was an open process and these are the kind of issues we will need to list and address. He also noted that if the basic biology and economics were not in place then we will not even broach those sorts of issues.

3. Review of Conservation Strategy

Rich Radmacher opened discussion of Chapter 7 by reviewing the principles and goals of the SSHCP that were adopted in 1996 and amended on July 31, 1997 (attached) and guided development of the plan. He also reviewed many of the assumptions that were decided upon and used to form the SSHCP. These include the concept that 50% of the vernal pool acres inside the UDA would be permitted for incidental take, approximately 39 and 56 thousand acres would be permitted and conserved respectively, the majority of the preservation would occur outside the UDA in the form of conservation easements, mitigation dollars would pay for a roughly one to one conservation ratio, additional preservation would come from other funding, and that the SSHCP would incorporate the Corps requirements for 404 permitting. Stan Van Vleck voiced the desire that the plan pursue the use of conservation easements for 85-90% of the preservation outside the UDA. He felt that it was important to leave these lands in private ownership to support the agricultural community and allow for long-term land management by those owners.

Bob Uram inquired as to the role of existing preserved lands in developing the conservation strategy. John Hodgson expressed that mitigation banks and operators are a part of the SSHCP. Rich added that existing credits could be purchased to satisfy the plan requirements and were anticipated in determining the conservation objectives for the SSHCP. He also noted that if we did not have preservation at the current extent, then the plan would likely be subject to higher preservation ratios.

Rich R. reviewed the development of the conservation zones concept. He explained that early in developing the plan, it was asked if hard-line or soft-line preserves would be established. In other words, would the plan specifically prescribe land that would be preserved or simply identify general areas where preservation might occur? It was easily determined that hard-line preserves would not be feasible. However, Rich explained that the SSHCP must provide assurances to the regulatory agencies that preservation would occur broadly and would not be focused in one particular area. Therefore, the biological sub-committee developed the conservation zone concept. Rich explained that the SSHCP was divided into twelve (12) general conservation zones, some of which are further subdivided into sub-zones. The Conservation Strategy then outlines preservation objectives and measures for each of the conservation zones or sub-zones. Many of the measures are specific to those zones, but the majority of the measures are drafted such that they may be achieved across multiple zones.

Taro E. expressed concern about limiting conservation to specific zones and using political lines in the establishment of the zones. He asked if the plan contemplates allowing conservation across zones for similar habitat. Rich replied that some zones will have specific measures, but there will also be floating targets that can be achieved across multiple zones. Taro expressed support for the zone concept, but wanted to define the zones based on habitat values rather than political or infrastructural lines. Rich replied that he believes the zones are roughly divided by habitat types. He explained that as the zones were created they would use an identifiable boundary, such as highway 99, and ask if that boundary made sense from a biological perspective. They felt that highway 99 was an appropriate distinction between the intensive

cropland agriculture in zone 9, which supports Swainson's Hawk, Greater Sandhill Crane, and Giant Garter Snake, and the more scattered distribution of irrigated pasture grassland, cropland, vineyards and agricultural residential development in zone 8. Similarly, the Folsom south canal forms the distinction between the habitat matrix in zone 8 and vernal pool grasslands and ranching lands in zone 7. Taro hypothetically questioned if there is a willing seller on the east side of highway 99, but not on the west side, if they miss the opportunity for mitigation. Rich reiterated that we have to set minimums for many of the habitats by zone, but there is still a floating acreage that may be achieved across the conservation zones.

Rich then explained the Desirable Preserve Areas Map. He illustrated that the map was produced to capture 150-200+ percent of what the SSHCP may actually need to acquire. Taro agreed that this helped explain the plan and wanted to be sure that the document provides some flexibility. Rich restated that there would have to be some rigidity for the resource agencies. John Hopkins added that the East Contra Costa Plan uses zones and sub-zones that are in many cases very small, as small as 500 acres, with specific measures. He felt that the SSHCP is trying to be much less demanding, but that there are areas, because of specific biological needs or species occurrences, where more defined limitations were needed. Rich and John Hodgson noted that this was clearly a point of concern and if while reviewing the document additional clarification was needed or it was felt that the plan was too rigid, they wanted that feedback.

Bob Shattuck re-addressed the point of the currently preserved areas. He felt that in 1996 or '97 the thinking may have been different. He explained that he understood that the SSHCP was going to be a conservation plan and not a mitigation plan and that the existing conservation was a valid component to the overall conservation. He explained that this was one of the reasons why they did not have 'sticker shock' to the amount of land being proposed for preservation inside the USB as a lot of that was already set aside. He also recalled a conversation whereby they did not want to create a disincentive to provide contributions to conservation organizations, as they may be competing for the same mitigation lands as the development community. Jesse Wild remarked the study area is different due to the Recovery Plan, which suggests we save 80-95% of the habitat in the recovery units. Since we are a regional plan seeking to preserve large scale intact preserves, this allows the Service to be more flexible. She said that this is one of the reasons they have agreed to allow fifty percent of the vernal pool acres to be impacted. She stated that the preserved areas have been taken into account.

Bob Shattuck asked if 50 percent of the quality habitat would be permitted or 50 percent overall within the UDA. Jesse explained that the areas targeted were more desirable. Rich explained that the assumption was that 50 percent was applied throughout the UDA for vernal pools only. John Hopkins mentioned several points; 1) that the number of vernal pools has decreased over time due to development and preserves; and 2) in some cases the preservation has occurred consistent with what the plan has identified. However, there have been development in the past in very biologically rich areas and preservation in less desirable areas. He felt this has constrained what the SSHCP can do. He continued saying that the SSHCP prefers not to protect small areas, but must have large scale preserves that work biologically.

Paul Junker asked if the impacts could be quantified by zone and if one may mitigate in areas not shown in the desirable preserve areas. Rich answered that the areas shown on the map were areas where preservation was to be focused. This does not preclude preservation from occurring elsewhere. Paul followed asking if there were target numbers by zone. Vince replied that the conservation measures outline the targets by zone, but that we were working to create a table that depicts all of the conservation needs by zone.

Jim Ray asked how one will decide when an area may be impacted or preserved. Rich said that this is a difficult issue and why he has met with landowners to try come to an agreement on where preserves may be desirable. He emphasized that if agreements can be made, it would be very beneficial to this project. Bob Uram asked if there was a map that represented the 'realized' preserve areas that could be distributed. He felt that this could be helpful. Charlotte Mitchell and Stan Van Vleck did not feel that this map would be helpful. They would not like it to be public or used in local land use decisions. Stan said that when their constituents are asked about this issue, they almost always prefer that a map not be shown. Rich asked to clarify if their concern was mostly associated with land outside the UDA. Rich believed Mr. Uram was interested in a map depicting possible 'realized' preserves inside the UDA. He continued that we do have a map that shows what the preserve system could look like and is used when he meets with specific landowners or developers. Leighann pointed out that the map is entirely open for negotiation. Bob U. felt it could be helpful to see what a solution might look like even if it could change.

Bob U. continued to point out language suggesting that the Chapter 7 and conservation strategy covered the 404 permitting requirement was very weak and needed to be bolstered (pg. 7-5). Kathleen Dadey said that it was too early to know if all of the 404 requirements would be satisfied in the plan. Jae Chung suggested that another separate meeting, may be needed to flush this issue out and Bob U. agreed. John Hopkins noted that members of the group had participated in a SAMP sub-group earlier and determined that continued meetings would occur as necessary. He agreed that perhaps the time was approaching to have another of those meetings. Rich followed saying that the Corps have been engaged and that Chapter 6, the Plan Conditions chapter, will help address their needs. Paul Junker added that the SSHCP would be a 'no starter' without integrating the 404 requirements.

Bob U. also addressed the section relating the SSHCP to the USFWS Vernal Pool Recovery Plan (pg. 7-32). He felt that the language presented in the chapter was insufficient if an outside party pursued litigation. He felt that this was not a topic that could be glossed over and required further explanation. Jesse Wild noted that the Recovery Plan states that an HCP can propose an alternative conservation strategy that is biologically justifiable. It was agreed that the Conservation Strategy must explicitly state how the SSHCP addresses and meets the goals of the Recovery Plan. Specifically, the Vernal Pool Recovery Plan does not endorse restoration as scientifically sound, where as the SSHCP proposes to do a substantial amount of restoration. He felt that the Service would have to decide how it planned to address restoration of vernal pools.

Bob U. also brought up two points he coined as smart growth and infill for vernal pools. He said that the VWADI chart (pg. 7-26), according to his interpretation, discouraged preserving highly dense vernal pool areas. John Hopkins noted that this was not the intention of the chart. The concept of the VWADI is to identify areas that contain highly dense vernal pools as well as areas that contain large vernal pools. He explained that both were biologically distinct and should be represented in higher category VWADI classifications and therefore prioritized. Dan Gifford reiterated that the biological sub-committee had gone over this issue repeatedly. Jesse Wild and Rich agreed that the biological sub-committee could re-look at the chart to ensure both highly dense and large vernal pools were encouraged. Mr. Uram's infill concept relates to creating vernal pools within existing vernal pool complexes. Currently the conservation strategy does not support this concept and he suggested that this could have a significant affect on the costs of the SSHCP.

Hal Holland asked if there would be a timing component when implementing the conservation strategy. He offered, as an example, if there would be a requirement to mitigate inside the UDA prior to allowing mitigation outside the UDA. Rich explained that this would put a larger burden on early mitigators and

would not be possible. However, when the Study Area is looked at on a large scale there are about ten (10) large landowners inside the UDA. He has met with some of these individuals to, as mentioned earlier, discuss where possible preserves could fall consistent with the SSHCP goals. He also explained that the SSHCP would have a get-ahead, stay-ahead component whereby a certain number of acres (yet to be determined threshold) must be set aside ahead of mitigation need and mitigators could simply pay to meet their mitigation needs. If the number of acres dropped below this threshold, then the SSHCP would require a land delivery system until advanced preservation could be achieved. Bob Shattuck voiced the concern that coordination was needed on this issue as he has been dealing with issues recently where land was set in preservation for future mitigation use, but was told that it may not be accepted by the local jurisdiction. Everyone agreed that a meeting with the regulatory agencies (CDFG, USFWS, USEPA, USACE and local jurisdictions) was necessary to resolve this issue. Rich expressed that the County is interested in 'banking' land now, but is concerned with the concept of layering easements. The County would take the lead to organize this meeting as soon as possible. Hal H. suggested that there may be a joint agency template that can be used for this type of situation.

Sam Miller addressed landscape, core, minor and satellite preserves as they are presented in the draft Chapter. He noted that the draft does not specify that there will be many satellite preserves. He suggested that there will be more satellite preserves than are identified in the draft chapter to allow for property owner flexibility. He suggested adding language such as, "one or more..." satellite preserves in a particular zone. John Hopkins cautioned that the SSHCP must strive to minimize the number of satellite preserves or risk defeating the purpose of conserving large intact preserves.

Jim Purcell asked what happens to property off of the desirable preserve areas. Specifically could areas be added? Rich replied saying that the Desirable Preserve Area represents a starting area and that if there were lands to add, they should be added as soon as possible.

Bob U. asked how the vernal pool ratios were determined. Specifically he noted that the ratios in the SSHCP may be higher than project-by-project applicants have negotiated. Rich replied that the resource agencies helped to determine the ratios. Justin Cutler suggested that relative to the Vernal Pool Recovery Plan, where 19:1 or 6:1 ratios are presented, perhaps the ratios in the SSHCP should go up. He felt that a ratio of 4:1 or 3:1 was considered a compromise and quite reasonable.

Paul Junker asked about preserve buffers and landscape corridors. He noted that corridors were inconsistent in width and questioned the feasibility of a buffer in addition to a 1,000 foot corridor. Rich replied that buffers are included as a part of the preserve and not in addition to the preserve. Corridor widths were chosen to maintain viable habitat within the corridor. The primary example of this is the landscape corridor between the Mather Preserve and Sacramento Valley Vernal Pool Prairie Preserve. He explained that the habitat corridor along N. Laguna creek was selected based on the needs of Giant Garter Snake (GGS), among other species. He stated that experts had originally recommended 1,000+ foot buffers on either side of streams for GGS. After further inquiry it was determined that a 300 foot buffer on either side of Laguna Creek, which supplies a 600 foot corridor, was more feasible for N. Laguna Creek. Other significant streams such as Elder, Gerber and Morrison, would require a 150 foot set-back on both sides of the streams and remaining streams and swale systems would require a 100 foot set-back on both sides of the stream/swale. Paul explained that this was a concept that they wrestled with in Natomas and that it is important to have very clear language.

Hal Holland asked if vernal pools would be required to mitigate on the same geological formation. Rich replied that this was not possible, but there are some requirements for each formation.

Judy Waegell asked how it is planned to mesh trail systems with wildlife corridors. John Hopkins noted that this is being worked out in groups such as the Upper Laguna Creek Collaborative and that SSHCP folks participate in that group.

4. Recap Assigned Tasks

John Hodgson asked Vince K. to read through the significant issues that were brought up in the meeting. Vince noted that the area south of Elk Grove need to be discussed further, the roles of local jurisdictions regarding the EIR/EIS needs to be clarified, integration of the SSHCP and 404 requirements must be completed, an interim solution to preserving habitat prior to mitigation need must be reached, and that the role of buffers in the preserve system needed clarification. Taro added that the issue of defining conservation zones and flexibility within those zones was needed. Also, John Hodgson noted that consistency with the Vernal Pool Recovery Plan needed greater depth and roles of permittee agencies must be clarified. He stated that a list of the major points would be compiled and distributed to the group and that several off line meetings would be coordinated to help resolve some of the issues.

The next Steering Committee meeting will be held on June 7th from 9-12 PM to continue discussion of Chapter 7 the Conservation Strategy.

It was reiterated that the Sacramento County Board of Supervisors would hear the SSHCP on June 5th at 3:00 PM to consider commencing environmental review.