

Minutes

South Sacramento Habitat Conservation Plan Steering Committee - November 1, 2007

10:00-12:00 - 700 H Street, 7th Floor CEO Large Conference Room

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

Attendee	Affiliation
Alta Tura	Sacramento Audubon
Barbara Wackford	BMW Consulting/Morse Family
Bob Shattuck	Lennar
Carmen Lee	SRCS D
Chris Beale	Resources Law Group/City of Elk Grove
Dan Gifford	CDFG
Darren Suen	Lakemont Homes
Debbie Haldeman	Wildlands, Inc.
Ginger Fodge	Gibson & Skordal LLC
Hal Holland	Westervelt Ecological Services
Humera Arshad	SRCS D
James Romero	Reynen & Bardis Communities
Jim Purcell	Conservation Resources
John Hopkins	Institute for Ecological Health
John Lane	Teichert Aggregates
Judy Waegell	Waegell Family
Kate Wheatley	Taylor & Wiley
Kathy Dadey	U.S. Army Corps of Engineers
Leighann Moffitt	Sacramento County Planning
Mark Hanson	SBM Real Estate
Rich Radmacher	Sacramento County Planning
Ron Bertolina	AKT Development
Sam Miller	Lewis Planned Communities
Sarena Deeble	SRCS D Policy & Planning
Sean Wirth	SOS Cranes
Stan Van Vleck	Cattlmen
Taro Echiburu	City of Elk Grove
Travis Hemmen	Westervelt Ecological Services
Vincent King	Sacramento County Planning

1. Call to Order and Introductions

The meeting was called to order by Rich Radmacher and introductions were made.

2. Review Chapter 12, Implementation

Rich began review of Chapter 12 by explaining the overall structure of the Implementing entity. He said that this was the first of likely two sessions where the Steering Committee would review the Implementation Chapter. The chapter was reviewed a page at a time.

Kathy Dadey asked if the Technical Advisory (TAC) and Scientific Review Committees (SRC) would be voluntary. John Hopkins envisioned that the SRC would provide input to the entire Implementing Entity

and that the agricultural and environmental groups would want to have representation on these groups. Rich said that he felt that the TAC would be a voluntary group, but the SRC would perhaps receive some sort of stipend.

Sam Miller said that the scope of this chapter was large and it is a daunting task to tackle it all. He suggested the committee review the differing governance approaches prior to a page-by-page review. Rich emphasized that input by the committee is helpful, but ultimately the governance structure would be determined by the six plan participants.

Sean Wirth asked what safeguards would be put in place to ensure that the plan and/or TAC operated in an unbiased fashion. John H. added that in other plans and on the SSHCP Steering Committee, the number of representatives from each group was specified to ensure the proper mix of individuals and interests.

Kathy asked for clarifications as to how land or a project within an agencies jurisdiction, but not 'specified' in the plan, would get coverage under the SSHCP. Rich explained that projects inside the UDA did not have to be specifically identified to receive coverage and the extent of coverage was defined in the Impacts Analysis chapter. Projects outside the UDA would have to be specifically identified if they were to be covered under the Plan.

It was asked if coverage would be provided for future activities that may go across preserves such as sewer or water lines. John Hopkins noted that this has developed as an issue in Southern California. Rich said that there are provisions in the HCP Conservation Strategy Chapter that would prohibit such activities.

Hal Holland mentioned that the section under Conservancy Staff should include a position for an experienced preserve manager.

Sean Wirth brought up the concern with oversight regarding the TAC. He felt a procedure should be outlined for reviewing and challenging recommendations/decisions. Stan Van Vleck also felt that there should be some guidelines/procedures for identifying potential conflicts of interests and how to deal with those situations. Kathy continued stating that she would like to see more detail as to the specific actions that either needed board (Governing Authority) approval and/or what actions could be done by the conservancy itself.

Sam Miller noted that the distinction between the County Water Agency and Board of Supervisors wasn't needed as they are one in the same. Rich Radmacher responded by explaining while the makeup of the Board is the same for the Water Agency and the County Board of Supervisor, technically they are independent governing bodies and as permit holders they would have different interests in the SSHCP. He continued to ask how other entities (e.g. SMUD, PG&E) might be extended coverage under the plan. Would they be "Other Participating Entities"? Chris Beale said that they could contract with the Governing Authority (GA) and the GA could extend take coverage.

Sam followed asking how mitigation monitoring responsibilities would be transferred/held under the plan. Chris Beale and Rich Radmacher concurred that the local jurisdiction will retain responsibility for mitigation monitoring such as it is currently done. Similarly, Dan Gifford asked who would review an application from other entities such as a School District. Rich anticipated that the Governing Authority would review those applications and that this would need to be spelled out in more detail.

Sam noted that some of the tasks that the TAC and SRC seemed to be charged with are things that the Conservancy will have professional staff to conduct. He felt these groups should maintain advisory roles. Rich explained that he viewed the SRC as a group that could be an auditor of sorts. Sam felt that this could be a very expensive effort.

Dan Gifford noted in Section 12.3.5 that the second bullet stated that the SRC would suggest modifications to the plan goals, objectives, and measures sounded like an amendment to the plan. He felt that these issues were better dealt with in the Monitoring and Adaptive Management chapter of the plan. Alta Tura and John Hopkins suggested that the SRC could be helpful in suggesting ways to implement the plan.

Dan Gifford pointed out that the implementation chapter should probably address timing issues (i.e. when procedures took place relative to one another). Stan Van Vleck echoed this opinion as it is not only important for mitigators, but individuals with mitigation land. For example, could an individual that had land with moderate mitigation value be superseded by a property owner who expresses interests six months later, but may have land with greater conservation value.

Sam Miller cautioned that these processes would be tricky to craft and that we needed to be sure that questions of land use control are clearly spelled out and maintained by the appropriate jurisdictions. Chris Beale noted in response to a question by John Lane that land use processes should not change from how they are currently established.

Kathy Dadey asked how a fee would be calculated for a stream that runs through grassland, but does not necessarily contain any habitat defined as 'riparian.' Rich said that the fee would be calculated as it is mapped/identified on the ground (i.e. as grassland/agricultural lands).

Dan Gifford posed the question as to how habitat would be viewed 30 years down the line. He explained that the Biological Opinion for the SSHCP would be written to reflect the habitat conditions on the ground when the habitat was mapped and permits issued. He questioned what would happen if that habitat changed (i.e. woodlands died off and were no longer there) and if this would pose a problem. Rich agreed that this situation would need to be discussed further.

John Hopkins pointed out that the aspects of the plan relating to riparian habitat were still dependant on work being done by the County on the Riparian habitat account and work that the Corps was conducting for the Sacramento County Riparian Assessment. Sam felt that this was dangerous as the SSHCP has been operating on a set of definitions and it sounds as though those definitions may be changing. John said that there were still issues to be worked out with the riparian aspects of the plan.

Barbara Wackford mentioned that the wording describing the implementation fee system may be interpreted to mean two different things and that this should be revised to clarify the intent (Section 12.5.1). Similarly, Sean Wirth suggested revising Section 12.5.2 as the wording may be misleading.

Sam Miller and Sean Wirth addressed concerns with timing of the get-ahead stay-ahead component to the plan. Rich explained that there were a lot of issues with that section and that he would try to revamp it prior to getting into too much detail with the group.

Hal Holland addressed concerns with section 12.6.2. He said that eliminating potential properties from conservation opportunities that didn't have water rights should be taken on a case by case basis. He explained that often water rights may have been transferred in the 1930's or 40's and it can be simple to reacquire those rights. Also, the water rights may not be necessary for the conservation purposed of that particular property. Stan concurred that this was an important clarification for agricultural folks.

Hal also expressed concern over language that would allow the Implementing Entity to sell property that may no longer provide 'high' conservation value to purchase lands with greater conservation value. He felt that this may put a lot of weight on a nebulous weighing of 'value'. Stan Van Vleck felt that the sale of these properties should be subject to an easement. Rich clarified that he felt it was important to be able to maintain some flexibility, particularly within the UDA. He anticipated that much of the preserve land within the UDA would ultimately be owned by the conservancy and that they should have the ability if, in 30 years, the property had become isolated, degraded, reduced of value etc... to sell the property to purchase better land that may fit more appropriately within the matrix of preserved lands. John Hopkins noted that he felt this was an important aspect to implementation of the plan. Stan Van Vleck reiterated that the Cattlemen and farming groups were opposed to any fee title purchase outside of the UDA.

Hal mentioned that the acquisition criteria of a property being adjacent to currently preserved land may be too restrictive. He offered that an isolated property may be the start of a new preserve to establish critical links. Rich clarified that the criteria would be used when choosing between 3 or 4 potential properties. Sam Miller asked if the regulatory agencies needed these lists of criteria for the plan. Dan Gifford said that the agencies did need the criteria, but perhaps they are better located in the Conservation Strategy.

Stan Van Vleck mentioned that the language in Section 12.6.5 was in place at the request of the Farm Bureau and Cattlemen.

John Hopkins mentioned that he felt some of the prohibitions in the easement language seemed too restrictive and/or not desired by conservation and possibly agricultural operations.

Hal Holland wanted to point out on page 12-10 that the conservancy may want to target disturbed lands to allow for the restoration needs of the SSHCP.

Ron Bertolina mentioned that prohibiting development and then creating criteria whereby a property could not be preserved may bring up a regulatory takings issue. Rich explained that he did not anticipate that issue arising as the plan is voluntary except for potentially inside the UDA. This is why negotiations with folks are attempted now to establish reliable preserve lines inside the UDA.

Jim Purcell asked who would do the appraisals and how they would be conducted. Rich replied that appraisals would continue to be done as they are now and that the land would be assessed for the highest and best use.

Sam Miller addressed issues concerning 404 permitting and integration with the SSHCP document. He is concerned that nothing in the SSHCP document today reflects the goals that Kathy Dadey has related to the group. He and Bob Shattuck are concerned with the possible double dipping of mitigation needs. Rich acknowledge the issue and said that 404 information would be needed throughout the document. Chris Beale added that this may become difficult as it relates to on-site preserves and John Hopkins cautioned that on-site preserves are troublesome and should be avoided.

Kate Wheatley asked if there would be an acreage limit as to whether a fee or land delivery was required. Rich said that either would be allowed provided that the land was suitable to the SSHCP conservation strategy.

Ginger Fodge and John Hopkins addressed issues in the potential easement language related to flood control and converting grassland habitat to agricultural lands.

Hal Holland mentioned concerns with mitigation/conservation banks. He explained that mitigation banks go through a process whereby the Service signs a 'bank' document and that changing this document to specifically meet the SSHCP may be tricky to do. He felt that they should be viewed for relative consistency. Also, he wanted it to be clarified how bank 'credits' would fall into the order of priority verses easement and fee title purchases. Rich said that he would need to talk with the Service regarding banking operations. He has been told that if a bank does not meet the SSHCP standards, it cannot be used.

Review concluded on page 12-15 as time had run out. Comments are due in two weeks from the meeting date.

3. Recap Assigned Tasks

Comments on Chapter 12 should be sent to Rich or Vince within two weeks (November 15th). The next Steering Committee meeting will be held on December 6th from 10-12.