

Minutes

South Sacramento Habitat Conservation Plan Steering Committee - January 17, 2008

9:30-12:00 - 700 H Street, 5th Floor Training Room

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

Attendee	Affiliation
Alta Tura	Sacramento Audubon
Carmen Lee	SRCSO
Charlotte Mitchell	Sacramento County Farm Bureau
Chris Beale	Resources Law Group/City of Elk Grove
Dave Ghirardelli	Sac. Co. Waste Management
Dan Gifford	CDFG
Diane Kirkham	Kirkham Family
Elsie Machado	South County Land Owner
Eva Butler	CNPS
Ginger Fodge	Gibson & Skordal LLC
Humera Arshad	SRCSO
Hal Holland	Westervelt Ecological Services
Jae Chung	Corps of Engineers - Los Angeles
Jennifer Hogan	CDFG
Jim Purcell	Conservation Resources
John Hodgson	The Hodgson Company
John Hopkins	Institute for Ecological Health
Joyce Hunting	City of Rancho Cordova
Judy Waegell	Waegell Family
Kate Wheatley	Taylor & Wiley
Kathy Dadey	U.S. Army Corps of Engineers
Leighann Moffitt	Sacramento County Planning
Margaret Duarte	South County Land Owner
Nina Bicknese	U.S. Fish & Wildlife Service
Paul Junker	City of Rancho Cordova
Paul Sherman	Wildlands, Inc.
Peggy Lee	Independent Consultant
Rich Radmacher	Sacramento County Planning
Sam Miller	Lewis Planned Communities
Sean Wirth	SOS Cranes
Stan Van Vleck	Cattlemen
Tami Tollenaar	South County Land Owner
Taro Echiburu	City of Elk Grove
Valerie Calegari	The Nature Conservancy
Vincent King	Sacramento County Planning

1. Call to Order and Introductions

The meeting was called to order by John Hodgson and introductions were made. John explained that he had asked Rich to provide a timeline for tasks to be achieved over the next couple of months and the SSHCP overall. Rich said he had a timeline he wished to review with the regulatory agencies for CEQA

and NEPA requirements. He projected that a complete preliminary draft would be done in 8-9 months. The joint EIR/EIS process was anticipated to take 15-16 months. Kathy Dadey asked when scoping meetings would take place for the EIR/EIS. Rich said that DERA would be handling the scoping meeting and that they will occur in about 4-5 months. Nina Bicknese explained that scoping typically occurs once you have a reasonably complete plan. It takes 3-5 months to prepare for the scoping meetings. Rich said that he anticipated about 4 scoping meetings with at least one in each jurisdiction. Early 2011 is considered the deadline for SSHCP adoption. He also explained that while the EIR/EIS timeline is aggressive he felt it was comparable to other HCP EIR/EIS processes. Much of the environmental analysis has been conducted in the SSHCP and there is no traffic study needed for an HCP. To date, there have been three responses to DERA's request for proposals (RFP) and the notice of preparation (NOP) has been written and is in the process of being reviewed.

Rich explained that today's meeting was gathered to review the remaining four Implementation topics so that Rich could bring back a revised version of chapter 12. Future meetings would involve the revised assurances chapter and plan conditions chapter. Rich emphasized that it was time to pull a unified plan together.

2. Review Implementation Topics

Rich introduced the implementation topics.

Fee calculation: Alta Tura urged for a simplified process. She felt that calculating the fee based on 26 different habitat types may be burdensome. Eva Butler thought that calculating fees based on the SSHCP GIS shape files was a simple process. John Hopkins explained that using the baseline data helps to track what is being lost and to calculate the fee. As he has understood it, the SSHCP proposes 4-5 varying fee levels for different habitat types. In that sense, the fees will be based on a more simplified version of the habitat mapping, while tracking loss will require all 26 habitat types. Taro asked for a map showing the simplified 'fee based' habitats.

Sean Wirth asked how the plan would react to changes in land use. Sam Miller said that the regulatory world is a complicated place, but there are tools to navigate the complexities. So, complexity was not necessarily a problem. He asked if landowners would be providing the habitat maps. Rich said that he envisioned that the Implementing Entity (IE) would be responsible for contracting for the mapping. Sam felt that it would be a problem if landowners were not able to provide the mapping. He felt this should not be thought of as an appeals process but rather correcting the errors that may exist in the mapping. Kathy clarified that on the ground delineations would be required for wetlands. Rich acknowledged that wetland delineations would be absolutely necessary. He also noted that while there is inherent error to the SSHCP mapping, it is the most detailed and precise mapping effort conducted by an HCP.

Rich also acknowledged that there was a lot of information to be worked out with the 404 permitting issue, but that they were working to create something new. Kathy said that there has been a precedent set for regional permitting projects, so they aren't necessarily creating a new thing, but trying to apply tested concepts to a new area.

Ginger Fodge pointed out for the group that the Rapanos decision has changed wetland surveys and has caused costs to increase.

Diane Kirkham asked if the value of mitigation land would also be based on habitat mapping. Rich explained that the Implementing Entity would prepare a preserve documentation report (PDR). This report would essentially describe and survey the property for its habitat values. These are also done to help establish a baseline for preserve management. The PDR would be used in part to assess the value of the land for habitat preservation.

Rich asked Jae Chung to provide a brief explanation of the SAMP effort. Jae explained that the Corps was working on a SAMP like document, which is not all that different from an HCP. Like an HCP, they intend to identify high value resources, facilitate permitting in areas of lower value, and work to preserve areas of higher value. The SSHCP generated the WADI to identify higher value vernal pool resources in the study area. Jae explained that they intended to generate an analogous model for other aquatic resources. Rich noted that the HCP has always operated with the intent to integrate 404 permitting. He explained that they intend to establish a regional general permit (RGP) or programmatic permitting system for projects with smaller footprints. Larger projects would be facilitated through a letter of permission (LOP) or other streamlined process so long as the projects are consistent with the SSHCP. Kathy clarified that the acreage threshold for the different RGP or LOP processes was yet to be determined.

Eva Butler revisited how to deal with the disparity between what the mapping says today compared to what it may actually be in the future. Dan said that ultimately this plan will produce a take permit for species and the acres would need to line up. Nina Bicknese explained that the take estimates simply put a cap on what would be permitted. Disparities would require a revision to the plan. If there is a huge disparity for a specific project, perhaps they'll have to refer back to the baseline mapping. It was asked if an individual would be penalized for allowing riparian forest to grow into their irrigated pasture for example since woodland would be assessed at a greater cost. Nina also asked about the mapping effort and meta data for that project. Rich said he could send it out or it was suggested to put it up on the website.

Kathy Dadey addressed the Corps permitting review authority and their ability to delegate review of wetlands delineations. She explained that there is an appeals process for wetland delineations. She also explained that the Corps could not pass on regulatory determination to another agency and that the U.S. Environmental Protection Agency (USEPA) has the final authority. Ginger Fodge suggested caution when assuming Corps verified wetlands will cover all wetland impacts because there may be a number of wetlands that are non-jurisdiction to the Corps, but still regulated by a regional board. Sam Miller commented that it was difficult to have this discussion without a proposed process compared to the current process.

Neighboring landowner agreement program: Rich explained that other HCPs have an agreement whereby landowners neighboring a newly preserved property may seek protections assuring them that they will not be subject to greater regulatory oversight and penalty because of species entering their property from their neighbors' property that is part of a preserve. Dan explained that in San Joaquin County landowners wanted protections in perpetuity, which he felt was a very difficult thing to guarantee. Specifically, he noted that the permits would not be in perpetuity and that agreements are made with landowners, whom change over time. Nina said that the federal agencies have the safe harbor agreement and Jennifer Hogan said that the State now has a similar agreement. Rich suggested that the SSHCP simply state that agreements should be sought with the existing state and federal programs. Charlotte Mitchell emphasized that this was a very important concept for landowners. She

wants the plan or whatever mechanism is best to ultimately ensure that landowners can truly be protected in a variety of means. Stan Van Vleck voiced concern that while there is an effort to make the plan voluntary, neighbors of project proponents and future preserve areas will not have a choice. He felt that there should be an effort to find a way to protect those neighbors.

John Hopkins provided an example from Yolo County. He said that their plan had wanted assurances to be automatic for neighboring landowners. At the time it was being discussed, it was not possible to resolve all the issues and it remained unresolved. Stan appreciated the example, but still felt that it should be addressed.

Chris Beale explained that unless you are the permittee, landowners do not want to be subject to a permit. This is likely the reason why no one has signed up for the East Contra Costa County or San Joaquin programs.

Eva Butler said that at a minimum, neighboring landowners should be informed and provided information about how to seek protections under the existing programs. Charlotte felt that landowners need a guarantee that they could trust. Eva agreed, but noted it may be a process that the landowner had to engage.

Land and easement acquisitions: Rich explained that the plan will pursue acquiring easements to satisfy as much of the plan conservation needs as possible. However, a portion of those would have to be very restrictive to allow for greater management of the property for species. Stan noted two issues with government entities owning land; one, the land is not treated the same by a tenant as if it were managed for long term productivity by an owner and two, the possessors interest tax goes up very high which is paid by the tenants and translates to very low rents to make it affordable.

Stan also pointed out the problem with Franklin field. If he was reading the point correctly, it would translate to preserving 16 square miles in fee title, which is an astronomical amount of land. Rich apologized for the phrasing of the sentence in the handout. He had miss-stated the issue. He continued explaining that Franklin Field airport sat in the middle of the SSHCP zone 9, which is a critically important zone for agricultural conservation for a number of species. He had heard from airports that they would like access to conservation lands within 10,000 feet of the airport so that they could conduct Wildlife Hazard Abatement. This is clearly not consistent with the goals of the HCP, but if fee title lands were pursued, perhaps it would make sense to focus fee title acquisitions to this area. Stan reiterated that first restricted easements should be offered before a fee title approach was taken. Several south county landowners (Machado, Duarte, and Tollenaar) expressed concern that these types of plans are being conducted without their knowledge and without being informed.

Dan Gifford explained that he felt Rich intended to reveal an issue that the California Department of Fish and Game (CDFG) and the Federal Aviation Administration (FAA) are about to confront in the Natomas area. He continued explaining several of the tenants of the HCP. He said that the SSHCP is a voluntary plan for real estate and developers. Similarly, it is a voluntary option for landowners to participate in easements. An HCP does not designate any land uses. All preserves are from willing sellers and each easement is negotiated individually with the landowners for an individual price. Rich explained that the easement template language in the document were examples of things that may need to be done under the more restrictive easements.

Diane Kirkham raised three points. First, the list of restrictions was totally unattainable and too restrictive in her view. The language needed to be more generic. Second, the difference between the standard and restrictive easement would result in a monetary difference that should be reflected in the economic analysis and third, she wasn't sure if this is the right place to deal with the FAA issue. She wondered how severe the FAA could be considering all of the Nature Conservancy's land that surrounds the airport. Rich replied that she was correct; this issue would not be solved here. The intent was to inform people that it was developing and may factor into decisions made for the SSHCP.

Stan suggested a separate sit down meeting to help resolve this issue for the landowners. A date would be selected for this meeting. John Hodgson summarized three issues to discuss with the landowners; one, the HCP's relation to landuse, two, the voluntary nature of the program and third, the neighbor protection issue. He said that the whole premise of the plan is to work with all of the players to develop a compromise that makes everyone reasonably satisfied. Without that, the plan doesn't work.

Charlotte said that the easement portion deserved another look. Valerie Calegari said that from her experience each easement is negotiated on an individual basis. Diane said she would like to see the spirit of the individual negotiations written into the document.

Sean Wirth spoke to the necessity of having some management control. He said that by maintaining certain crops on a small portion of the land it can help to alleviate the damage to species that a market change may cause if crops shift in the region.

Paul Junker asked if there is a number of acres that would have to be managed more restrictively. Rich said that a number would be developed.

Existing Conservation & Mitigation Operators: Rich explained that this was a topic raised by Aimee Rutledge and he felt it was clear that they would need to meet with the mitigation operators. He said that there are multiple things going on. For example, would the Implementing Entity contract with existing organizations to manage land? Would banking operations be able to play a role given economic considerations and are they consistent with the HCP? John Hodgson always envisioned the banks and conservancies as critical to the plan. He said that from a client perspective, choices are desirable. Not only that, but banks have experience and should be active in the effort. Hal Holland said that banks look to provide a cheaper solution, if they cannot compete with what the SSHCP proposes, then they will not operate in the county. That is an economic reality and his concern is with the transition period while operators have investments in the County.

Paul Junker asked if there was an opportunity to develop trustee operator partnerships. Chris Beale said that that was exactly what East Contra Costa County was going to do with East Bay Regional Parks for their HCP/NCCP.

The mitigation operators agreed to get together and contact the County to set a meeting date.

3. Recap Assigned Tasks

The next Steering Committee meeting will be on Thursday, February 21st from approximately 9:30 to 12 in the 5th floor training room of 700 H Street. The exact time will depend on materials.