

HABITAT CONSERVATION ADVISORY COMMITTEE

for the Washington County Habitat Conservation Plan (HCP)

A **work meeting** of the Habitat Conservation Advisory Committee (HCAC) was held at the Washington County Administration building on **FEBRUARY 28, 2012**.

Committee members present were:

Karl Wilson, Chairman	Mayors Association
Chris Blake, Vice Chairman	Environmental Organization
Chris Hart	Local Development
Bob Sandberg	HCP Administrator
Marc Mortensen	Citizen-at-Large
Reed Harris	Utah Dept. of Natural Resources (UDNR)
Jimmy Tyree	Bureau of Land Management (BLM)

Absent and Excused:

Larry Crist	U.S. Fish & Wildlife Service (USFWS)
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Also present were:

Amber Stocks	HCP - Recorder
Cameron Rognan	HCP - Biologist
Alan Gardner	County Commissioner
Mike Empey	Congressman Jim Matheson's Office
Ellen Schunk	Senator Mike Lee's Office
Eric Clarke	Deputy Washington County Attorney
Dallin Gardner	Citizen
Robert Brennan	Property owner
Shered Mullins	BLM – Realty Specialist
Jim Crisp	HCP – Volunteer, former BLM management
Dean Cox	Washington County Administrator
Scott Hirschi	Former Steering Committee Chairman

1. CALL TO ORDER

Chairman Wilson called the meeting to order at 9:30 A.M.

2. DISCUSSION ITEM

a. Review and discuss the history of James Doyle and Environmental Land Technologies (ELT)

Chairman Wilson explained the main purpose of the meeting is to educate the members of the board who haven't been around since the beginning, to go through the history of Environmental Land Technologies (ELT) properties and other in-holdings.

Introductions were made and Chairman Wilson turned the time over to Bob Sandberg. Bob began by showing a history and chronology that has been put together by HCP staff (exhibit 2-a-1). Bob indicated this history is not represented as all-inclusive or all-encompassing. There have been insinuations at the lack of action from the HCAC, the BLM, the HCP, and Washington County. Bob passed out exhibit 2-a-2, a history of BLM HCP land acquisitions. Bob read the ELT lands which have been acquired since 1996.

Jim Crisp stated the last ELT 6.6 acre acquisition was funded with the Land and Water Conservation Funds (LWCF) before he left the BLM. Bob added a total of 696 acres have been purchased with LWCF (not all of this is ELT lands).

ELT has had 383 acres acquired and 1,341 acres remain to be acquired from Bob Brennan, ELT (James Doyle), Alan Carter and SITLA. Reed Harris clarified that SITLA has an additional 8,000 acres in addition to the portion received from ELT that needs to be acquired. The HCAC reviewed exhibit 2-a-4, a map of in-holdings ownership. The map shows that ELT has 274.17 acres, Bob Brennan has 821.59 acres, Alan Carter (His Family Matters) has 153.29 acres and SITLA has 92 acres. At one point SITLA was supposed to get 12.5% of all proceeds. The settlement agreement which finalized on September 13, 2010 gave SITLA 92 acres.

Reed stated instead of dealing with the whole area as "ELT", there are a number of different land owners to deal with who are absolutely separate from one another with a legal description for each owner as a result of the settlement. Jimmy Tyree asked if the settlement was the conclusion of the bankruptcy. Mr. Brennan stated the settlement agreement on September 13, 2010 was approved by the bankruptcy court.

Reed asked when the last time was that an appraisal was prepared for any of the properties. Bob answered that in addition to ELT, Brennan, Carter and SITLA, there are a few other parcels inside the Reserve, and to his knowledge there hasn't been an appraisal done since he has been with the HCP (going on four years). Shered Mullins stated an appraisal was done in 2008-2009 on some of Mr. Doyle's property that came out at approximately \$25,000 an acre. Reed asked what the big picture is along with all that the HCAC needs to do. Chairman Wilson added he would like to know what land value to use. Should it be the value of the land the day the Reserve was established, or should it be the value of the land on the date he was made an offer, or should today's value be used?

Jimmy reminded the HCAC that BLM appraisals are only good for 12 months before they need to be updated; it can be like hitting a moving target. Reed added that he understands the appraisal process and how federal agencies require appraisal reviews. By the time appraisals are completed it's almost time to do update them. Reed continued he would like to know if the HCAC is not performing and if so why and also if offers have been made and turned down. In some instances offers are made and people won't accept them because they feel their land is worth more. The negotiating process will still need to happen.

Chris Hart mentioned early on there were several private parcels sold. Hyrum Smith's ground was developable ground in a prime setting. He probably followed the appraisal process where an offer was made, accepted, and funded. Jim Crisp stated the Hyrum Smith acquisition would likely have followed this process. The various parcels that he dealt with had appraisals ranging from \$1,500 an acre (land with little development potential) to over \$80,000 an acre for small parcels at the height of the boom when comparable sales were available and prices skyrocketed. Jim said the BLM conducted the appraisals with BLM staff from Salt Lake City and Washington D.C. with a large number of contracts issued to qualified private sector appraisers. Early in the process contract costs were shared with the party giving up the privately-owned property.

Chris Hart asked if it was typical for there to be disagreement between the evaluation of the appraisal and the landowner's perception. Jim stated in 90% of the cases there was disagreement. A number of approaches were used to deal with the disagreements. The BLM chief appraiser from Washington D.C. came to Washington County, Utah to conduct discussions. The Inspector General's Office, the General Accounting Office, and an appraisal institute were brought in after the fact to review the process used based on allegations from several outside parties. Their analysis concluded that the appraisal process used was not consistent with Federal Law. The chief appraiser came to sit down with the exchange proponents and talk about the disagreements, to find a way to resolve them. He was criticized for negotiating a value that resulted in the government paying too much for the properties. Jim did not concur with those conclusions and reiterated that appraisals were always the biggest issues in completing the exchanges.

Chris Hart stated it appeared ELT put forth a great deal of expense prior to 1990 for intended development on these lands. During Mr. Doyle's presentation to the HCAC in January he mentioned that appraisals don't take into account some of these things. Chris Hart agreed that appraisals probably don't reflect what has been done prior to the appraisal. Jim Crisp explained the initial ELT work was done on paper with no development on the ground. The government does not pay for paperwork.

Mr. Brennan explained that he became involved with ELT as a lender in 1997 and explained that ELT has done every exchange they have been asked to do up to this nine acre exchange that Jimmy Tyree is trying to accomplish. Mr. Doyle may not have been happy with the price but he agreed to every exchange with the last exchange of 24.4 acres in 2006. In 2007 an appraisal was conducted on 1,403 acres at \$143 million. A piece that was previously \$25,000 an acre increased to \$60,000 in 2007. The 821.59 acres Mr. Brennan owns was appraised in May 2007 under federal guidelines at \$85 million. Today it would most likely be appraised for \$35-40 million. It seems that the valuations on the west side have some rougher land at about ½ the price per acre as opposed to the Green Spring's side. At one time Mr. Doyle's property was appraised at \$60,000-\$70,000 an acre and today's value would be roughly \$25,000-\$30,000.

Chris Hart stated there is reference made to a \$28 million offer. Was it real and did the offer actually take place? Mr. Brennan's understanding was that ELT tried to get \$28

million but it was never brought forth, there was never any money in place. Dallin Gardner agreed. Reed explained that land prices escalated rapidly and several different funding schemes were used. All means available were used to apply HCP money including where the State could cost share. People donated property and those transactions had to have appraisals as well. This made it complicated.

Reed expressed his disappointment in the USFWS for discontinuing the \$4-6 million funds for acquisitions that Utah had been receiving each year. The state doesn't have cash for matching grants, so Utah has been using properties donated in SCSP as match. Those properties are contentious issues with SCSP. There are a lot of encumbered properties in the Reserve which have also been used as match for federal money. Reed commented he doesn't know the best way to keep everything together in order to proceed, to find out who needs to get the funding and what the best mechanism is to get the funding.

Jim Crisp commented that at one point the BLM requested \$28 million which at the time would have purchased the entire ELT tract. Based on the latest appraisal completed, Jim indicated that Mr. Doyle did not seem willing to accept \$28 million as he felt it was worth a lot more. Mr. Doyle went to Connecticut to get an appraiser that would triple what the federal appraisers were coming up with. The year that the BLM requested \$28 million from LWCF, the BLM nationwide was given \$43 million and the local BLM was zeroed out and never received another dollar from LWCF.

Jim continued explaining that when buying a small piece of property, the government pays extra dollars; the smaller the parcel the higher the price per acre. Buying a larger piece of property can be done at a much better price per acre in terms of the buyer's perspective. When this whole process was put together it was never envisioned that the BLM or any other entity would acquire a little piece at a time. The BLM looked at large assembled land exchanges and Mr. Doyle was supposed to be a coordinator, to get all the land owners together with an established value. He was also pursuing the acquisition of properties elsewhere, including out of state, for a massive land exchange either administratively or legislatively. For years there were bills before Congress for a legislative exchange to take care of everything all at once. To acquire parcel by parcel is crazy and too complex.

Mr. Brennan stated he was a lender before he became an owner in 2010 and remembers a Bill 1209 which went through Congress. It passed through the House twice and the Senate once but never at the same time. ELT did try to get it done and Mr. Doyle spent a lot of money with attorneys to accomplish that.

Chris Hart asked if in the whole history of ELT there was ever a time when there was an amount proposed that was actually funded where ELT could have been called upon to accept or reject. Jim confirmed that it never got to that point.

Bob took the committee back to Hyrum Smith and stated there were two Section 6 acquisitions through SCSP which used the property as a match for other purchases. A

third acquisition was from a Nature Conservancy donation which Reed clarified was used to acquire the AMSCO Windows property. AMSCO Windows primarily put an encumbrance on the property for tax purposes and sold it to The Nature Conservancy. The Nature Conservancy then turned around and sold it to the state of Utah for a mere \$50,000 which was far more expensive property in Paradise Canyon that went into the Park. The land then became available for match. Reed added he is unsure if the land is still available for match money and what it would be worth. Reed doesn't see the state encumbering more property in the Park unless Section 6 (a federal grant from FWS for HCP lands) becomes available again.

At one point a 9:1 match was required because tortoises are not only in this area, they are also in other states. The FWS felt the states should pay more so they changed the rules and it became a 3:1 match. When dealing with millions of dollars, that means the state has to come up with a lot of money and there is not cash for that kind of purchase. That's why Section 6 money is needed.

Chris Hart felt that ultimately the purchase of this land is a federal obligation. Reed explained the Washington County HCP is well driven and it places huge responsibility on the federal government to make it whole. There were a lot of people in Washington D.C. who feel that HCPs in general should be paid by the local people. The federal government felt like this particular HCP was weighted heavily on the federal side for responsibility to get it accomplished and cleaned up. Commissioner Gardner stated the FWS listed the species, so it should be their responsibility.

Chris Hart remarked that in the original creation of the HCP there was an agreement as to where the funding would come from to acquire these in-holdings. Bob commented the HCP Implementation Plan lists out those responsibilities for the FWS, BLM, DWR, Washington County and all the cities in the county. Washington County was required to fund the operation and hiring of the HCP administrator, biologist and other people necessary to conduct clearances and other work, which would allow development to occur outside of the Reserve. The BLM was tasked with taking care of the land acquisitions with the County facilitating those acquisitions.

Chris Hart asked where the ball has been dropped and stated it sounds like it is BLM's obligation to fulfill their part of the agreement. Jimmy Tyree pointed out there was never a dedicated funding source for the BLM. There was a mix and match of different possibilities with exchanges, LWCF, and Section 6 money. Chris Hart stated aside from whether there was a funding source, the BLM signed onto the agreement and thereby obligated themselves. Bob explained there were a lot of federal people who felt it was a heavy obligation.

Mr. Brennan related that he had a recent conversation with Larry Crist from FWS. Larry had explained that when this HCP was done 17 years ago it was easy compared to the way they are done now. The way they're currently funded is through a county bond or a tax on land developers. Bob indicated that developers are funding this HCP with impact fees. Chris Hart reiterated that an agreement is an agreement and he doesn't care how

it is taken care of; there is still an agreement.

The agreement is not between the property owners and the Reserve, the County or the BLM. The agreement is between the BLM, the County, the cities, the FWS and the DWR. Essentially in the agreement, if the property owners and the BLM/County cannot get it done, the property owners are able to do a Section 10 to develop their property. Mr. Brennan stated the agreement says that no third party (property owners) can sue in regards to the agreement. The agreement doesn't seem to be written well.

Reed stated the property owners can do their own HCP and would have to do the same thing the County did. When addressing the original cost, land values were \$1,000-2,000 an acre and ballooned to \$20,000 an acre. Jim stated at one point if it would have worked out, Mr. Doyle could have owned 1/3 of Washington County including grazing lands (grazing land was \$65 an acre) for the value that was put on his property.

Jim shared some strategic planning from early on. Bruce Babbitt and George Frampton, the Secretary of the Interior and the Assistant Secretary of the Interior were directly involved. It was important to the Interior Department to have the HCP in Southern Utah work out. They wanted to promote the concept of HCP's as a means of dealing with "train wrecks" occurring across the country whenever endangered species habitats were declared in metropolitan areas with a lot of private land. Babbitt and Frampton put their full personal responsibility onto this project and set up a high level team to work on it. A weekly report had to be sent back to Secretary Babbitt from BLM's office in Salt Lake City. There was a personal commitment from the Secretary and there was a team of people set up in the BLM State Office. When Jim started working for the BLM, the GS-14 Land Specialist and the State Director personally managed the project. Jim was informed at the time that BLM's St. George office (the smallest BLM field office in the organization) did not have the capability to take on this particular acquisition project. It would have been the largest acquisition project in terms of dollars in the entire history of the Interior Department and had to be administered on a higher level. Within five months the State Director left to serve in Washington as the Assistant BLM Director and the State BLM was short on staff for a period of time. All of a sudden the personal commitment no longer existed. In 1997 BLM had \$14 million in LWCF which did not buy very much in St. George. Values were going up very high and \$14 million was used very quickly.

Jim continued sharing the history, stating that Mr. Doyle had a number of other approaches. He tried to make interstate exchanges, always saying that it was "in the bag." Interstate land exchanges require congressional approval. Once the local BLM lost the high level of support, the responsibility came back to a small office. The local BLM had to fight the entire appraisal process, the federal attorneys, and anyone else who wanted to step in with what was going on, resulting in disaster from the acquisition process. All those willing owners who have property in the Reserve deserve a fair and timely shot at finishing the acquisition process. The government can then have the property to put into the Red Cliffs National Conservation Area, which should have some federal priority. Congress dried up LWCF money nationwide, making it unavailable and

Section 6 money is limited.

Commissioner Gardner added that there were groups from the northwest contesting the land exchanges. Jim agreed, every land exchange with the BLM was challenged. Anything that could be protested was protested and when an appraisal was complete, the federal protest process would be followed. By the time it was finished it was time to do another appraisal.

Commissioner Gardner stated he had property involved in the early exchanges. From start to finish was five years for a couple hundred acres. Jim stated that early in the process the BLM was able to get a lot of transactions done because they were kept low key and local as much as possible. After awhile the exchanges became very hard. The chief appraiser was accused of going in the wrong direction with the BLM paying too much. None of the land owners believed that and Jim stated he didn't believe it either. After awhile, nobody in D.C. wanted to touch the project and it became animas to them. Right now there doesn't seem to be a champion in D.C. If champions in the headquarters of the Interior Department are not there for support, there will not be support for large financial obligations or large land exchanges. This area is still large for a legislative land exchange or legislative taking; however, it's probably the best way to finish up. Other than Jim Matheson and Orrin Hatch, most members of the Utah delegation probably are not even aware of this issue.

Commissioner Gardner inquired if there are any matches for state money available as an option for funding or if there would be federal money if someone comes up with match money. Reed stated he thinks there may be some state money available (although it wasn't available last time it was applied for) and Section 6 HCP money is available at a 3:1 match. Donated property to the State of Utah can be turned around and used for match and there are still some donated properties inside the Reserve available for match. If they can be used for match then we don't have to come up with non-federal dollars. It would all need to be looked at again.

Cameron Rognan stated there is about \$30 million for the entire year that is distributed competitively nationally. Most awards are in the hundreds of thousands and a few are in the small millions which would only buy a small portion of these inholdings.

Reed added he was always hopeful the Washington County Land Bill would be the vehicle to use either through exchange or through purchase. Section 6 money got to the point where it was not allocated in Utah; there were higher priorities elsewhere. Section 6 funds are still being applied for and received in areas not related to HCPs, with certainly less of it. There doesn't seem to be an appetite in Congress to allocate grants for endangered species but there are still obligations that need to be met. If the federal government doesn't allocate money then counties and states have to pick up the costs.

Jimmy Tyree explained that in September 2010 when the settlement was reached and creditors were given parcels of property, which opened new doors for the BLM. The

bankruptcy didn't want land; they wanted money which was not available. The BLM submitted an application for LWCF for federal year 2012 funding and it was not approved. The BLM worked with David Beaver from the D.C. office to revamp the proposal. As a result, the BLM had a \$ 4 million proposal that was approved, ranking as one of the highest nationally for federal year 2013 on the President's budget. Although this is not a big chunk of change, when looking at the big picture it is a good start. The nation splits the LWCF into different entities and groups around the country. The BLM feels optimistic it will be available next year to divide up based on appraised value.

Jimmy continued, a lot of people are under the impression that the Land Bill gave the BLM additional properties to sell and it did not. All it did was reinforce that the BLM had authority to dispose of lands that were identified in the 1999 Resource Management Plan (RMP). Most of those have been disposed and the BLM is going through NEPA work now to get the rest of the parcels cleared for auction. Shered reiterated that the Land Bill reaffirmed land that could be sold as identified by the 1999 RMP. It did not give the ability to sell anything that wasn't in the RMP. It basically established an account where the proceeds from those sales could be housed, keeping money in Washington County instead of sending it back to Washington D.C.

Shered explained the BLM was asked by the state office to put together a strategy on how acquisition could be done after the ELT bankruptcy situation was resolved. The BLM came up with a three phased approach, trying to take into consideration there are now three private land owners involved instead of one. Phase one is to prepare for auction seven parcels totaling about 160 acres. The biggest issue is the appraisals and the lack of being able to agree on the value. In strengthening the ability to compete for LWCF funds a third party, the non-profit Trust for Public Land has helped show Washington D.C. that if they allot some LWCF funds to this project that the BLM can close on the property. The easiest way to do that is to have a third party purchase an option agreement on these lands. When the money is granted there is only a year to use it and any unused proceeds will be sent back to D.C. The BLM tried to craft a strategy that took into account the personalities of land owners and the success rate from being able to close in the past. The BLM has moved forward with getting the seven parcels ready to sell within a couple of years. The BLM is trying to balance economics in the County without crashing the land values. The BLM has to pass the red face test putting public land up for sale when the economy is at its lowest land values.

The second phase is land exchanges. There are at least two land owners that are in a situation where land exchanges make sense. The process takes three to five years and is back-loaded with paperwork. Control from the local level has been pulled back to D.C. If D.C. pays attention to our exchange packages and signs off on them, we can then close on the deal if the land owner agrees to the value. If they don't agree, it's five years of wasted effort. That's what happened with a recent nine acre exchange, where it came to the end (5-7 years of work) and the value of the land was not agreed upon.

The biggest problem is being able to come to an agreement on the value.

Presentations Shered has seen from ELT speak a lot to entitlements and considerations to be put into appraisals which theoretically would increase the value of the property. Through letters, the BLM has requested to see in writing, proof of these entitlements. Proof has to be in writing and sent to a new agency, the Office of Evaluation Services (OES), which handles all appraisals for the BLM with limited communication to the local BLM office. Jimmy and Shered explained OES helps the process, requiring the BLM to present evidence up front. The BLM turns OES to the land owner and lets the land owner have a shot in presenting what they think needs to be considered in the appraisal. Once the appraisal is contracted out by OES it is hands off. Jimmy explained that even though there has been difficulty in some past cases, the process works well. Shered's primary job is to work with the Red Cliffs acquisitions.

Jimmy feels the BLM is at the end of the rope to come up with ways to secure funding and to find out what other options are available. There has been a lot done in the past year and a half, compared to the ten years of being completely dry on funding. Jimmy felt that support from congressional delegation, the County Commission, Senator Hatch and Congressman Matheson's offices have helped to grease the wheels in D.C. to focus on finishing this up. The BLM has spent \$80 million getting everybody taken care of. Shered did a great job in the LWCF proposals and applications on selling the point that we've come a long way and we're right at the very end. The deal needs to be closed and finished up.

Mr. Brennan reported he felt encouraged meeting with David Beaver, Michael Patrick (Trust for Public Lands), and Bob Sandberg. Originally we were told \$27 million that would be distributed nationwide and \$2-4 million would be available for Red Cliffs acquisitions. Michael Patrick has written a letter in support of the \$4 million LWCF. Mr. Brennan and Mr. Carter will pay them 8% from the funds when the deal is made and 5% to the county for property taxes. Michael Patrick and David Beaver feel this is an on-going thing and will be looking for additional money every year. There is a priority list ranking who gets money and Red Cliffs is only behind \$4.5 million. As long as \$8.5 million of the \$27 million gets put into the budget, that money should be available.

Jimmy stated the process with how the funds will be distributed is still to be determined and will probably be based on offers the BLM has made with percentages of ownership. The BLM wants to make sure all owners get a fair amount. Mr. Brennan clarified that ELT won't have to pay the same 8% to the Trust for Public Lands as it is an option for just Brennan and Carter. However, it is only fair that ELT gets a portion of the funds.

Commissioner Gardner stated Mr. Doyle definitely wants money. He has approached the County to have the County upfront \$2.5 million to his bankruptcy. Eric Clarke stated the process Mr. Doyle is trying to pursue now, is to have \$2.5 million sent within the confines of his bankruptcy for a land purchase. After the money is there he is hoping the judge will order an appraisal and it would have to be approved judicially and approved by him. At some point along the line, Mr. Doyle would get that money. Bob stated Mr. Doyle has indicated he is available if the HCAC wants to call him on a conference call. Mr. Doyle's latest email this morning said he requested to be part of

this meeting. See exhibit 2-a-3.

Mr. Brennan stated he thinks Mr. Doyle believes the only way this issue can be taken care of is legislatively as a one-time deal instead of piece by piece. Mr. Brennan admitted that Mr. Doyle could be right. Jim Crisp almost got it done at one time with some good help from lobbyists.

Jimmy inquired if there was ever development approved plats through the City or the County. Commissioner Gardner answered that there was never anything annexed. Jimmy stated some of the presentations talk about approved master plans and submitted concept plans. Commissioner Gardner replied that nothing was approved, the engineering conception work was done but nothing ever went to the planning commission. He further explained that Mr. Doyle was sent back and forth between Washington City and St. George City. Bob added that Mr. Doyle's land was not annexed to either city; he didn't have anyone to go to but he did work with both cities.

Chris Hart stated that Mr. Doyle asked the HCP to provide \$2.5 million to initiate a legal action and run it through the court system for a solution. Chairman Wilson answered that the HCAC would probably analyze and advise the County of that. Bob added that after Mr. Doyle receives the money he would deed over some portion of his property but it is still very unclear. Mr. Doyle talks about property, projects, and all kinds of things which go back to the beginning which is why he disagrees with the appraisals and doesn't want to accept anything unless it comes to that value. It was reiterated that ELT properties are not developed, have never been developed and have never had any plans approved or infrastructure installed.

Chris Hart said through reading Mr. Doyle's presentation, it seems this proposal is solely for a solution on his parcel; it's not intended to be a solution for all of the other property owners. Bob said that if this group were to decide there is money available it should be divvied up based on the percentage of ownership of all involved. Dean Cox added if money was given for the in-holdings, fundamentally it could shift the burden which would then acknowledge that the County and municipalities are on the hook for the debt. That was not the original intent of the HCP agreement, to be bothered by assuming the debt. Even making a token payment may put the County and cities on the hook for all of it. Dean expressed a great deal of sympathy for those who diligently try to work through a very confounding and confusing process. Dean also expressed he would hate to fundamentally shift the basic nature of the agreement so that the liability would come back on the communities and derail future LWCF funds that might otherwise be made available.

In four years there will be a brand new HCP in Washington County. Reed stated that either this one will be rolled over with the same stipulations as the current HCP or there will be a change to the balance of power. The money that has been put in by the County has been for the management of all the aspects of the land including fencing, law enforcement, etc. Reed added he may not be opposed to a small portion of money going toward additional land purchases but he would rather see the new HCP keep the

same basic tenants in terms of who pays for what.

Jimmy reminded the group that last year the HCAC talked about helping facilitate BLM land transactions with exchanges or purchases. Jimmy suggested they could assist with funding appraisals or something of that nature. Other options could be on the table over the next year to help facilitate some work the BLM has to do.

Mr. Brennan remarked it is certainly a complicated process, if the land owners, the County, the BLM State Director and senators could put all energy into getting it done congressionally, maybe it could happen. Dean stated if it went to a legislative solution, why do we think everyone could agree on an appraisal if they haven't been able to in the past? Mr. Brennan stated agreements and exchanges have happened. Dean felt unsure there would be a solution to fit all the different people involved. Mr. Brennan suggested he could spend time in Washington D.C. to see if there's a flavor for getting this done legislatively. Chris Hart stated it sounds like the difficulty in reaching consensus to the value of the land lies with Mr. Doyle. Chris Hart stated a legislative solution would need to have a consensus among the land owners with an acceptable position. Mr. Brennan stated it might be possible to resolve all but ELT, if ELT doesn't agree to the position. Jimmy added if 1,100 acres of the total area could be resolved it would still be a win situation. It would be Mr. Doyle's call if he doesn't accept the appraised value at the very end.

Chris Hart asked if the suggestion is to get an appraisal based on raw land as though there were no tortoises. It was answered that a reasonable appraisal would see it right next to the city and would say it would have been annexed into the city and developed as residential. OES would conduct the appraisal but if it went legislatively it wouldn't necessarily go through OES if all landowners were in agreement. Mr. Brennan stated he is willing to go any direction. In the next three or four years he would like to know that something is in place showing it will get done, even if it takes 20 more years.

On a side note, Eric reported that Mr. Doyle has made it very clear both through himself and one of his attorneys that after he gets this money it is his plan to use it to fund a law suit against the federal government and most likely Washington County on the grounds of a "taking". Eric stated that's something to take into account as he advises the County. Chris Hart mentioned Mr. Doyle tried to refute that in his most recent letter (exhibit 2-a-3). Eric mentioned that Mr. Doyle has gone back and forth on whether he would sue the County, but in a conversation with Mr. Doyle's attorney last Friday, that was his position.

Chris Hart asked how expensive appraisals are. Mr. Brennan stated Mr. Doyle had an extensive appraisal done years ago for around \$300,000. An appraisal Mr. Brennan had done for the whole 1,403 acres was \$8,000 in 2007. Chairman Wilson stated the HCAC authorized \$6,000 last year for an appraisal, a survey, a title search and a report of the Ken Anderson property.

Reed suggested that if the federal government cannot come up with a big chunk of

money and if land owners were willing to take money over a period of time, then perhaps as part of changing the existing HCP or extending it out for another 20 years, we could see if the federal government could commit to \$4 million or some other fixed amount each year under LWCF to take care of this purchase over a period of time. Reed would like to see the HCP hold for another 20 years without a lot of change and maintain some of the same responsibility that has been here over the last 20 years. Washington County and the people here have proven willingness to get the funding through impact fees. If there isn't a huge encumbrance perhaps someone could run that legislation and it wouldn't be such a big chunk for the federal government to buy off.

Mr. Brennan said it's either that or the County could be taxed at a higher rate. Commissioner Gardner doesn't see the County being willing to float a bond. Mr. Brennan asked about higher fees upon the developers. Commissioner Gardner stated right now developers are paying 0.02% on anything that is built. Mr. Brennan said that those developers are the ones who have been able to benefit because if it wasn't for this Reserve they wouldn't be doing what they are. The benefits to them have been monumental. Chris Hart asked how Mr. Brennan's property, next to the HCP, benefits anybody else out there. Mr. Brennan stated that developers could have a tortoise on their property and need a place for it to go. Chairman Wilson stated the Reserve has been a benefit to the communities to develop instead of allowing tortoises to hold us up.

Reed stated a problem with legislation is that once it gets in, it never stays the same. Mr. Brennan reiterated at one time the package went through the Senate and the House, just not in the same session. It can happen and there needs to be powerful people behind it to get it accomplished. Orrin Hatch has seen the letter that went to the State Director and seems to be behind this. Mr. Brennan believes Mr. Doyle would cooperate to get this done legislatively. Mr. Doyle seems to believe this is his only hope. The committee felt that if done legislatively, all inholdings would need to be taken care of including the other smaller parcels.

Cameron asked how the 5% property taxes will be used once the properties are sold. Commissioner Gardner stated under the green belt law the land has to be grazed. The commission has worked out a deal that this is in effect roll-back taxes and will go into the general fund to be disbursed to the school district and all the different taxing entities. Eric stated this is a hit the County has been taking. The properties have been assessed every year and the County hasn't been receiving those taxes. Mr. Brennan stated he went back about 13 years and paid roughly \$52,000 in October and another \$5,000 in November when taxes were due again. Mr. Brennan stated he will pay \$5,000 every year until it gets done and then pay he will pay the additional 5%.

Mike Empey stated this is like a lot of western issues that our delegation needs to be educated on and would probably support it once they understood it, yet how do you get the attention of the other 430 members of the House? The committee discussed individuals who are in good governmental positions to help with this issue in the House. Mr. Brennan suggested looking into it. Commissioner Gardner stated the County has talked to them numerous times and recently wrote a letter supporting it. Mr. Brennan

suggested trying again at least one more time especially since Senator Bingaman is gone (he was the only one that objected in previous sessions).

After we see how the election comes out it can have a big influence on what our possibilities may be. If the republicans have the senate, we'll be in better shape. Mike stated the mood of Congress for the last several years and the mood of the country in term of finances and getting the budget under control is another factor to consider with the \$15 trillion debt hanging over our head. Mr. Brennan stated he spent \$25,000 with a local engineering firm, going all over the county looking for exchangeable properties. There were six or seven deals and the BLM felt comfortable with one. Jimmy stated that exchanges can be hard to do and having more than one at a time is really difficult. The BLM doesn't have much land left for exchanges.

Reed stated the Utah Public Lands Office has worked on a number of exchanges throughout the state. There are other issues involved when exchanging outside the county. Administratively, exchanges can be done anywhere in the state. Outside of the state, it needs to be done legislatively. Commissioner Gardner responded that if Mr. Brennan finds land available in other Utah counties, this county would be willing to meet with those commissioners to discuss privatizing public lands in their county. Mr. Brennan stated the State Director has been very cooperative and wants to get this thing accomplished. If land is found outside this county, the State Director also seems willing to get it done.

The group talked about the possibility of having a legislative exchange. Jim explained that Mr. Doyle has tried it three different ways. It might work as long as it doesn't create a debt situation for the U.S. government. There will always be opponents; every past exchange has been contested by environmental groups. A legislative action can get through that but would take a very long time. Commissioner Gardner expressed his support if the landowners want to do a legislative exchange.

Chris Hart asked Jimmy if there is a way to maintain a position of priority from now on with the LWCF. Shered answered that technically it's all renegotiated every year. The 2014 submission was narrowed down by D.C. to a few projects in each state. For 2013 funds, this project is the 5th priority in the nation. D.C. wants to know this acquisition will happen and they feel much more comfortable when a third party like Trust for Public Lands supports the acquisition. Jimmy added the government prefers to not take a chunk out of one project and leave it unfinished. It's very encouraging to see that the federal government wants to see this thing finish up. While the package needs to be resubmitted every year, the acquisition of Red Cliffs and two other projects in the state are the only ones the government will consider for LWCF.

Chairman Wilson recapped, the history has been discussed, there are packets to study, and potential solutions have been talked about. From the committee's standpoint, the parties involved (BLM and landowners) should continue to brainstorm these ideas and move forward. This committee more or less can advise on solutions as they formulate.

Reed stated it may be good to give additional help with appraisals and other things. He also encouraged moving forward using every avenue available to get this done. This area is the heart of the Reserve, biologically it cannot be lost. It needs to be paid for and it needs to get into the Reserve. Mr. Brennan stated that he would love to develop his property. If a solution does not come about in the next 3-4 years, he would want to come to the HCAC and request to develop next to Green Springs. Mr. Brennan committed to work hard with everyone so that a solution can be reached.

3. ADJOURN

The meeting was adjourned at 11:35 A.M.
Minutes prepared by Amber Stocks.