

HABITAT CONSERVATION ADVISORY COMMITTEE

for Washington County Habitat Conservation Plan (HCP)

Regular meeting – January 27, 2009

The regular meeting of the Habitat Conservation Advisory Committee (HCAC) was held at the Washington City Council Chambers on January 27, 2009.

Committee members present were:

Chris Blake, Vice Chairman	Environmental Organization
Jeff Morby	Local Development
Larry Crist	U.S. Fish & Wildlife Service (USFWS)
Reed Harris	Utah Dept. of Natural Resources (UDNR)
Marc Mortensen	Citizen-at-Large
Jimmy Tyree	Bureau of Land Management (BLM)
Bob Sandberg	Washington County HCP

Absent and excused was:

Karl Wilson, Chairman	Mayors Association
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Also present were:

Kristen Comella	Snow Canyon State Park (SCSP)
Ann McLuckie	Utah Div. of Wildlife Resources (UDWR)
Dallin Gardner	ELT Properties
Allan Carter	Carter Family Trust
Alan Gardner	Washington County Commissioner
Marreen Casper	Senator Hatch's office
Mike Empey	Congressman Matheson's office
Lynne Scott	BLM
Chuck Gillette	Ivins City
Dave Glenn	Ivins City
Steve Meisner	Virgin River Program
Tom Webster	Washington County HCP
Brad Young	Washington County HCP

1. CALL TO ORDER

Vice Chairman Chris Blake noted that at least five committee members were present and a quorum existed. The meeting was called to order at 1:01 P.M.

2. CONSENT AGENDA

- a. Approval of the agenda**
- b. Review and approve minutes**
 - 1. November 25, 2008
- c. Next meeting date(s)**
 - 1. February 24, 2009

MOTION by Reed Harris to approve the Consent Agenda.

Seconded by Larry Crist.

Discussion: None.

Vote was taken: All voted aye.

Motion passed.

3. PRESENTATIONS

None.

4. UTILITY AND DEVELOPMENT PROJECT REVIEWS

None.

5. GENERAL BUSINESS

- a. Initiatives to acquire ELT properties (HCAC).**

Jimmy Tyree led the discussion. He said there were no qualified candidates to fill the position that would work on resolving the ELT properties, Carter Family Trust properties, and other in-holdings issues. He added that he has received approval to advertise the position at a higher wage level and push that forward. BLM is hoping to attract a more experienced candidate.

Allan Carter asked Jimmy when he thought he may actually be able to hire someone. Jimmy replied approximately 2 ½ months. Allan asked at what pay grade and the answer was a Grade 12.

- b. The Omnibus Public Lands Management Act of 2009 – status (HCAC).**

Reed Harris began the discussion by asking Jimmy about funding in the Land Bill (The Omnibus Public Lands Management Act of 2009) for the BLM Realty Specialist. Jimmy said that position would be filled with or without the Land Bill. Jimmy added that the Bill must still go through the House and then get Presidential signature – maybe in about a month.

Jimmy further added that BLM has been preparing an implementation plan. They are focusing on communication, personnel needs, staffing and implementation preparation. Jimmy explained that the Senate Bill is slightly different from what BLM was prepared for – there is a lack of funding.

Reed asked if the Realty Specialist position would help implement the Land Bill. Jimmy said that it would not necessarily. Jimmy explained that the position is being filled to work on the ELT properties, but may be used for other property transactions. Reed and Jimmy discussed land sales, land exchanges, and use of the resulting funds.

Alan Gardner distributed a copy of the portion of the Senate Bill pertaining to the Red Cliffs NCA (Exhibit 5-b-1 HCAC – 012709). Alan explained that 5% of the proceeds from land sales go to the State of Utah and the remainder goes towards ELT property and other in-holdings purchases. Alan added that there may be approximately 9,000 acres available for sale/exchange. Alan further added that the Frank Jackson parcel has been identified as coming out of the Reserve. Alan explained that a new management plan will be developed within three (3) years of the Bill being passed into law. He referred to page 234 of the exhibit and talked about cooperative plan development and that the Secretary (of the Interior) may adopt all or portions of the existing HCP.

Jeff Morby asked about the 44,000 acres referred to in the Bill. Alan explained that the Bill only refers to federal lands, not private lands or state lands. Alan added that the Beaver Dam Slope NCA is also included in the Bill. In response to Reed's question, Alan said that the Beaver Dam Slope NCA will be a separate NCA from Red Cliffs.

Allan Carter asked about the HCAC and will it still exist. Alan Gardner said the Secretary will manage the NCA, but the County's position is that they will keep as much of the current structure as possible and keep everyone in the loop.

c. Ivins Detention Dam mitigation – revised Memorandum of Agreement (Exhibit 5-c-1 HCAC – 012709 (with attachments)).

Chris Blake explained that this item is back on the HCAC agenda because it was assigned to the Technical Committee (TC) to review, which they have done, and now it is back for consideration.

The 50% fence construction cost sharing was discussed. Chris said the previous language had that Ivins City would request (but not necessarily be granted) reimbursement for up to 50% of the construction cost. The current language says that there will be a 50/50 cost sharing. Bob Sandberg explained that there is no specific precedence, but the HCP has routinely split the costs with government entities.

Chris asked if the TC was agreeable to the present MOA. Bob said the TC was in agreement. Chris asked if there were any other comments or concerns. Kristen Comella asked Chuck Gillette about the State Engineer redesigning the detention dam, which may alter the Biological Opinion and the mitigation. Chuck said the MOA should be

delayed going to the County Commission until a final determination is made. If there are changes then Ivins City may need to come back to the HCAC.

The estimated cost of construction the 2,020 lineal feet of new fencing and relocating 520 lineal feet of existing fence was discussed. The estimate is approximately \$5,000.00 to \$7,000.00.

MOTION by Marc Mortensen to continue this agenda item to the next meeting.
Seconded by Jeff Morby.
Discussion: None.
Vote was taken: All voted aye.
Motion passed.

d. Ivins City – Request to add utility roads to the Utilities Corridors and Access Roads map (Exhibits 5-d-1 and 5-d-2 HCAC – 012709).

Chris Blake explained the request, and asked if it had been reviewed by the TC. Chuck Gillette explained that the request has been reviewed by the TC and that it was obvious that the roads need to be included in the Utilities Corridors and Access Roads map. Chuck stressed the importance of the maintenance roads and having them on the map.

Bob Sandberg added that the proposed roads will be designated R-3 and be consistent with the City of Saint George and the Washington City access roads within the Reserve.

MOTION by Jeff Morby to amend the Utilities Corridors and Access Roads map to include the access roads shown on Exhibit 5-d-2 HCAC – 012709.
Seconded by Reed Harris.
Discussion: None.
Vote was taken: All voted aye.
Motion passed.

e. Ivins City – Request to consider a boundary adjustment (Exhibits 5-e-1 and 5-e-2 HCAC – 012709).

Chuck Gillette explained that this request related to updating and expanding the Ivins City Animal Shelter. Chuck further explained the necessity of making the boundary change. Chuck added that all of the property involved is owned by Ivins City (there'll be no ownership change), and that Parcel B shown on Exhibit 5-e-2 HCAC – 012709 is above Basin 3.

Alan Gardner brought up the issue of the pending Land Bill and suggested that the boundary change be made as soon as possible because after the Bill passes, such boundary changes will be difficult.

MOTION by Jeff Morby to refer the boundary change request to the Technical Committee for review and recommendation, and to expedite the review.

Seconded by Marc Mortensen.

Discussion: None

Vote was taken: All voted aye.

Motion passed.

Marc asked if the Reserve boundary changes in the City of Saint George have gone to the TC for review, and are they considered major or minor amendments, and who decides. Ann McLuckie explained that the TC determines if there are biological impacts and if there are none, then the adjustment is minor. Reed added that it is a process in the HCP and that the U.S. Fish & Wildlife Service makes the determination as to major or minor. Ann said that the TC must still review the request.

f. Confluence Park – easement waiver (Bob Sandberg).

Bob Sandberg explained that he'd been contacted by the Washington County Attorney's Office (Dave Patterson) regarding a sewer line easement through Confluence Park. The issue is that an easement cannot be granted across the property because of the existing conservation easements unless done so by condemnation. The Ash Creek Special Service District (ACSSD) and Washington County have discussed the issue and decided on a 'friendly condemnation' and are asking the parties involved to waive the fee requirement. The parties involved are the Conservation Fund, the U.S. Fish & Wildlife Service, the Utah Department of Natural Resources, The Virgin River Resource Management and Recovery Program, and Washington County. A letter has been sent to the interested parties informing them of the issue and asking them to consent to a waiver of the fee.

Larry Crist said that he has not received such a letter, but does recall some discussion involving Steve Meisner from the Virgin River Program and Lori Rose. He thought that they had worked with Ash Creek SSD on the alignment of the easement. Larry added that there may be involvement with Section 6 monies and the Federal Aid Office. Larry said he thought the HCAC had addressed this issue at one time. Bob said that HCP staff was unable to locate any record of discussion or action by the HCAC. Bob explained that he had contacted the Conservation Fund and learned from them that they are no longer an interested party because the County bought them out for \$185,000.00.

Reed explained that there was a relocation of the ACSSD pipeline and a waiver of the fee was requested at that time – which UDNR acquired. Then, currently and separately, UDNR is working with ACSSD on a proposal for wastewater discharge just above Confluence property that ACSSD owns. The issue is the level of the treatment of the wastewater - Type I not Type II effluent.

Reed further explained that UDNR and UDWR hold conservation easements on each of the three parcels that make up Confluence Park properties. Reed said that Section 6 monies were used and if impairment of the property occurs, then reimbursement may be necessary. He further explained that the State and the USF&WS will work together to resolve any issues because of the Section 6 agreement. Reed noted that he is unsure of how the Reserve fits into the equation because while Washington County owns the property, the State holds conservation easements primarily for endangered fish. And, the State is working closely with the Confluence Park board and the Fish and Wildlife Service on the park management.

Reed asked for comment from Steve Meisner. Steve said he recalled that the pipeline agreement was such that it would not result in additional rip-rap or any stream impairment; it would be 50 feet wide, and may be relocated if the lines were damaged by flooding. Not all of Steve's comments and explanation from the back of the room were completely audible.

Steve and Reed discussed the funding source for purchasing the Terry West property. Also, Reed recalled that the pipeline was done and no further action was necessary. Alan Gardner added that the issue is beyond the scope of the HCP. Bob Sandberg explained that Dave Patterson wanted assurance that all parties were aware and agreeable to the fee waiver. Reed said that he recalled getting approvals from the National Fish & Wildlife Foundation and the Utah Quality Growth Commission.

Larry Crist said that he doesn't really have any issues with it. He explained that if there were no Section 6 monies involved and the funding was simply federal funds that came through the transfer agreement, then he could handle the approval through his office. But, if there were Section 6 monies then the Federal Aid Office in Denver would have to be contacted. Reed said that DNR and the Virgin River Program did not think the pipeline relocation would have any impact on the resources they are charged with protecting. Further, the amount of compensation was minimal in terms of a payment and that we could get more out of the deal by getting turnouts and flush toilets for the Confluence Park. Chris Blake said that there is really nothing for the HCAC to approve because Other Species monies were used and no further action is necessary. Lastly, Chris added that if there is a document that the County Attorney's office would like the HCAC to approve, then they could submit it.

g. Scope of work projects

- 1. Red Cliffs Botanical Garden** (Exhibit 5-g-1-a HCAC – 012709)
(Kristen Comella and Chris Blake).

Kristen began the discussion by distributing a handout to the committee members. The handout, which is a Technical Committee Report, is labeled Exhibit 5-g-1-b HCAC – 012709. She explained that the TC has had two meetings and one site visit concerning this ongoing desert garden concept. Kristen expressed the TC's concerns:

- Potential permanent loss of habitat,
- Restricted tortoise movement along the periphery of the desert garden, and,
- Off-trail impacts to wildlife and habitat.

Kristen referred to Exhibit 5-g-1-a and discussed the uses envisioned for the red area, the deletion of the blue area, the yellow area uses, and the deletion of the green zone on the east side of Pioneer Park. Kristen briefly addressed the green area north of Brooks Nature Park – no new trails to be added.

Lynne Scott talked about a ‘friendly’ boundary dispute with the City of Saint George. She has asked the BLM cadastral surveyors to make a boundary line determination. BLM feels that much of the area designated for the desert garden is within the BLM property boundary and the City of Saint George feels that it is city property. Marc added that the city needs to share with BLM some documentation showing that the property came back into city ownership.

Marc further explained that the Washington County Water Conservancy District (WCWCD) wants to participate in the desert botanical garden and water feature – which they have some funding for, and that Mayor Dan McArthur feels that the Red Cliffs Desert Reserve should have a presence in or near the desert garden in the form of an educational/interpretive center – which the city is willing to help accommodate. There will be a Saint George City Council work meeting on February 12, 2009, at 4:00 P.M. in which the concept of an education/interpretive center will be discussed. The building may be two-story with a 5,000 to 7,500 sq. ft. footprint. The idea is so conceptual that it is too early to even go to the TC. The City of Saint George is very interested in having a presence and participation in the project by the Red Cliffs Desert Reserve. Chris Blake asked the members if there was anyone who was not in favor of the Reserve having a presence. There were none.

Larry Crist stressed caution in spending and getting the necessary and required projects completed first. Jimmy Tyree also expressed caution in spending. Reed is in favor of information and education but is also concerned about habitat protection and declining revenues.

Marc asked about some seed money for architectural drawings or plans. Bob Sandberg said that the \$50,000.00 that was seed money for the living museum has been absorbed into the Education Outreach budget – for which there is a total of \$50,000.00. Jeff clarified that the red area is outside of the Reserve. He also favors seeing conceptual plans. Marc talked about the city’s vision of an interpretive center, possibly with an observation balcony. Commissioner Gardner said that it seems to make sense to have a multi-use building. The members discussed the conceptual size and location of a multi-use building. The WCWCD would prefer that the building not be in the red area.

Kristen stressed that the yellow area be a low impact area while the red area is reserved for development. She wishes that the TC remain involved.

The members are in favor of continuing with the development of concept plans. Bob and Lynne will attend the February 12th Saint George City Council work meeting.

2. Fencing and clearances (Karl Wilson).

Chairman Wilson was absent. There was no discussion regarding this agenda item.

3. New reserve map (Tom Webster and Marc Mortensen).

Tom Webster began by reminding the members that the goals for the new map are to create a new upgraded map, publish it economically so it can be given out for free, and to have it done by March. Tom added that by getting the map completed properly it may exceed the March deadline.

Tom explained to the members that HCP is using the Saint George City's Urban Trail System Map and Guide as a model for the new RCDR map. The City's map is 18" X 24" and the current RCDR map is 18" X 36". The new RCDR map is targeted to be 18" X 28". The new map will be color-coded and clearly show the upland and lowland zones. The background will show geographic relief, and the map will contain more information on trailheads and trails, including trail conditions, distance, elevation change and level of difficulty. The Reserve rules and regulations, and detailed trail, trailhead and contact information will be printed on the back. Information and descriptions on plant life, wildlife and geology will be published in a separate pamphlet.

Tom further explained that he's contacted Sandy Bell for assistance, and he continues to coordinate with HCP partners on the project. The partners include Snow Canyon State Park, BLM, and the City of Saint George. Tom is shooting for a completion date in March, but flexibility is necessary.

h. Status of the Fire Management Plan development (Handout) (TC).

Kristen Comella distributed two handouts. The first, Exhibit 5-h-1 HCAC – 012709, is a three-page draft Fire Management Plan, and the second, Exhibit 5-h-2 HCAC – 012709, is a five-page work plan. Kristen referred to the first exhibit and explained to the members that there are three areas of focus, they are: Protecting unburned habitat, restoring burned habitat, and fire prevention and suppression. She discussed Goal 1 and Goal 2 on the draft Fire Management Plan and explained that goals lead to objectives, objectives lead to action items, and action items lead to scope-of-work plans.

Ann McLuckie spoke to the members regarding Exhibit 5-h-2 HCAC – 012709 and explained that the work plan is a draft copy and is focused on restoring burned habitat by beginning with monitoring eight reseeded test polygons to determine if reseeding methods were effective. The test polygons were established by JBR Environmental Consultants in December 2007, as a result of fires within the Reserve. The test polygons have not been monitored for success. The TC wants to determine the success of the reseeding, identify effective management actions to restore and or re-establish desert tortoise habitat, and control undesirable invasive non-native vegetation.

Ann added that another scope-of-work project is planned for the actual habitat restoration. Chris Blake asked why the test plots had not been monitored. Ann told the members that the TC had recommended monitoring as a high priority, but that it had simply never been done. Chris asked for a proposal to begin the monitoring and expects it to be on the next HCAC agenda. Kristen explained that a scope-of-work proposal will come as a result of action item 2.2.1 (B) of the draft Fire Management Plan.

Chris referred to agenda item 5-j and asked why we require mitigation for such things as establishing fire breaks as described in Objective 1.2 of the draft Fire Management Plan. Not all of Ann's response from the audience is completely audible. She told the members about a meeting held about one and half years ago with fire fighting officials in which she learned that improving trails or roads as fire breaks is ineffective because fire behavior is unpredictable. She suggested establishing green strips as fire breaks instead. Chris said that he expects a better plan than what was in effect before the devastating fires of 2005 in which approximately 1/3 of the habitat was destroyed. Ann and Kristen explained that fires near urban areas are addressed first to protect human life and structures.

Reed said that he feels strongly that any action taken to protect tortoises should not require mitigation. He advocated green stripping as a fire break. Reed went on to ask about page 4 of Exhibit 5-h-2 (JBR's Reclamation Monitoring Cost Estimate). Ann explained that she is asking JBR for more detail.

i. Improving permitting process by county and cities in the designated *take areas* (Larry Crist).

Larry began the discussion by citing two recent uncoordinated developments within *take areas*. The two incidences are the LDS church at the top of Foremaster Drive in Saint George and a new elementary school construction south of 600 North in Hurricane. Larry wondered if there are other instances that we're not aware of. Larry suggested reaching out to the permitting agencies in the county to refresh what the HCP is all about and to prevent future instances. Larry recommended reissuing the letters to the governing authorities to reaffirm the procedures and processes. Chris suggested conducting process training for the various planning commissions.

Bob Sandberg explained that HCP has sent a letter on December 17th to all city managers of cities affected by the Reserve or *take areas* reminding them of the development process and protocols and inviting discussion and training. Bob added that he has met with the Hurricane City officials, and has an appointment tomorrow (January 28, 2009) with the Springdale City Manager. Bob also has intentions to meet with all of the cities to promote relations and assure compliance to the development process.

j. Mitigation/compensation requirements – discussion (Chris Blake).

Discussed previously under agenda item 5-h (top of this page).

k. HCAC membership and annual elections (Exhibit 5-k-1 HCAC – 012709) (HCAC).

Marc Mortensen will continue to serve as Citizen at Large and Jeff Morby will continue to represent local development. Both memberships are in compliance with Section 6.2.3 of the Habitat Conservation Plan.

MOTION by Marc Mortensen to continue the annual elections to the February 24th meeting.
Seconded by Larry Crist.
Discussion: None
Vote was taken: All voted.
Motion passed.

i. Administrator's Report (Bob Sandberg).

1. Budget report – 2008 adjustments and revenue (Exhibit 5-l-1-a HCAC – 012709).

Bob Sandberg referred to Exhibit 5-l-1-a HCAC – 012709 and explained that the original 2008 budget was \$1,650,000.00, but due to decreasing revenue was reduced to \$1,364,000.00 by the county's budget officer in early December. Bob further explained the budget adjustments shown on the exhibit were made to balance specific line items.

Larry noted that the HCP has only spent approximately half of the original budgeted amount. Chris explained that the HCAC budgets in surplus so if there are cost overruns the budget process won't have to be reopened. Chris added that in municipal budgets it is very easy to spend less than the budget but very difficult to spend more.

Jimmy Tyree asked about line item 23-4149-314 – BLM Law Enforcement. Bob explained that it is a carryover from an original commitment in the HCP to fund some BLM law enforcement on the Reserve. He added that it was in the 2008 budget but no monies were spent. Law enforcement on the Reserve is primarily provided by the Washington County Sheriff's Office.

The members discussed the current budget and the budget chart included in the annual report.

2. Bluff Street Cracks aka Diagonal Street Cliffs rock climbing – status.

Bob Sandberg said that research shows there was a boundary adjustment in 2006 that moved the RCDR boundary from the top of the cliffs to the bottom of the cliffs. So, according to the RCDR Recreation Ordinance and the TC's recommendation, rock climbing will be allowed with the seasonal closure and no top anchors permitted. Issues

remaining to be resolved are access to the cliffs, seasonal closure signage, and enforcement. Previous signage by HCP staff was discussed by Ann.

Bob explained to the members that the last instruction he had from the HCAC was to work with Saint George City staff to resolve the issues. The committee members discussed responsibility for signage and enforcement. Marc said that he understood that this type of issue is why the City of Saint George is considering adopting the RCDCR Recreation Ordinance.

There was discussion between Kristen, Ann, Marc and Bob on signage, sign placement, sign language, posting, costs, and enforcement. Kristen will provide Bob with a sign template that State Parks uses for their seasonal closure to protect nesting raptors. Bob will continue to coordinate with City of Saint George staff.

3. Washington City well #3 – status.

Bob related to the members that Washington City staff continues to work on this troublesome well. Lester Dalton has told Bob that they should be finished by the end of this week (January 30th), but problems could cause them to work into next week.

4. SR 18 widening project – status.

Bob told the committee that he has met with Brett Jensen, an engineer from Jacobs Engineering who said that everything is on track. There should be a contractor selected by March 1st and begin breaking ground by mid-March. Bob added that the right-of-way fencing issues are being addressed. Fence integrity should be completed by February 15th and the area surveyed for presence/absence by March 1st. All work will be within the highway right-of-way.

Jeff asked exactly where the work will be performed. Bob explained from approximately *The Trails* subdivision entrance southerly to Twist Hollow, but not all the way to Snow Canyon Parkway – due to budget reductions.

5. Submit the 4th Quarter – 2008 Report.

The 4th Quarter 2008 Quarterly Report was submitted pursuant to Section 6.3.2 of the HCP. Review and consideration for acceptance will be placed on the February agenda.

6. Submit the 2008 Annual Report.

The 2008 Annual Report was submitted to the committee pursuant to Section 6.3.3 of the HCP. [Amended by the HCAC on 5/24/05 and approved by the County Commission on 7/12/05.]

6. **OTHER BUSINESS**

a. **Annual Desert Tortoise Council (DTC) Symposium**

Chris talked about the 34th Annual DTC Symposium scheduled to be held in Mesquite, Nevada February 19 through 22, 2009. Ann commented that she and Rick Fridell will be leading a field trip to the Reserve. Bob Sandberg, Tom Webster and Justin Neighbor from HCP administration will be attending some or most of the symposium.

b. **Turkey Farm demolition – status**

Ann informed the members that the demolition of the old turkey farm has been completed.

There was no other business to discuss.

7. **ADJOURN**

MOTION by Reed Harris to adjourn.

Vote was taken: All voted aye.

Motion passed.

The meeting was adjourned at 3:10 P.M.

Minutes prepared by Brad Young.