

HABITAT CONSERVATION ADVISORY COMMITTEE

for the Washington County Habitat Conservation Plan (HCP)

A regular meeting of the Habitat Conservation Advisory Committee (HCAC) was held at the Washington City Council Chambers on **JULY 27, 2010**.

Committee members present were:

Karl Wilson, Chairman	Mayors Association
Chris Blake, Vice Chairman	Environmental Organization
Larry Crist	U.S. Fish & Wildlife Service (USF&WS)
Jeff Morby	Local Development
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 Administrator

Also present were:

Del W. Despain, Ph.D.	Colorado Plateau Associates
Brad Young	HCP
Cameron Rognan	HCP
Renee Chi	U.S. Fish & Wildlife Service (USF&WS)
Mike Empey	Congressman Matheson's office
Marreen Casper	Senator Hatch's office
Paul Van Dam	Citizens for Dixie's Future
Lisa Rutherford	Citizens for Dixie's Future
Waid Reynolds	Interested citizen
Alan Gardner	County Commissioner

1. CALL TO ORDER

Chairman Wilson noted that all committee members were present and the meeting was called to order promptly at 1:00 P.M.

2. CONSENT AGENDA

The Consent Agenda is a means of expediting routine matters which come before the committee for approval. The consent portion of the agenda is approved by one (1) non-debatable motion. If any member wishes to remove an item from the consent portion of the agenda, then that item becomes the first order of business on the regular agenda.

- a. Approval of the agenda**
- b. Review and approve minutes**
 - 1. June 22, 2010
- c. Next meeting date**
 - 1. August 24, 2010

The members briefly discussed a budget work meeting on the morning of August 24, 2010 and decided to begin at 10:00 A.M.

MOTION by Chris Blake to approve the Consent Agenda and include a morning budget work meeting on August 24, 2010.

Seconded by Marc Mortensen.

Discussion: None.

Vote was taken: All voted aye.

Motion passed.

3. **PRESENTATIONS**

- a. Update on the reclamation polygon monitoring (Del Despain, Colorado Plateau Associates)

Bob Sandberg introduced Del Despain and explained that Dr. Despain is conducting the requested monitoring of the Skyline-to-Red Hills substation mitigation polygons. This is the second year of a three-year study on the success of the restoration efforts.

Dr. Despain began by saying that there isn't much restoration to report. He used a PowerPoint presentation to aid in his update (Exhibit 3-a-1 HCAC - 072710). Dr. Despain displayed a slide showing the locations of the eight polygons and explained that each treated polygon has two macro plots that were studied and one nearby macro plot in an untreated area that was also studied for comparison purposes. The plots were sampled in May 2009 and in May 2010.

Dr. Despain explained that the polygon areas were burned in 2005 and 2006 and were reseeded in December 2007. He showed slides of burned and unburned areas for comparison and said that the burned areas are slowly recovering. He added that Blackbrush may recover, but probably not in our lifetime. Dr. Despain showed additional slides of other burned polygons and unburned macro plots and explained the return of some plant species, Blackbrush, is clearly absent in the mitigation plots.

Dr. Despain continued his report by explaining that there is not much impact from the reseeding effort; but Desert marigold is the exception, it seems to have done better than the other plants species. He further explained that the reseeding was done with native plant species so it is difficult to determine the success of the reseeding. Globemallow has limited success in the study polygon – perhaps due to the application method. Brittlebush is coming back, but it is also a native species and determining success of the reseeding is difficult.

Dr. Despain briefly talked about Western Harvester ants and the possibility that the ants may have an impact on reseeded areas. He also mentioned Tumble mustard and explained that it is not a significant fire hazard. Filaree is another annual plant species appearing in the treated area survey. It is also not a significant fire hazard.

However, Red brome and Cheatgrass are fire hazards and both species are recovering in the treated areas. Dr. Despain noted that the cheatgrass is not doing as well in the burned area as in the unburned area, probably because of the absence of shade in the burned areas.

Mariposa lily and Trefoil are two other plants that Dr. Despain talked about. He said that tortoises seem to favor these species, especially the seed pods and stems of the Mariposa lily. Dr. Despain explained that this year there is a 33% chance that these two species will be found in any of the study plots whereas there is almost no chance of finding either species last year. Weather and climate differences between 2009 and 2010 may be the underlying cause.

Reed Harris noted that it will take a lot of time for the burned areas to recover and that the fire cycles may impede brush species, like Blackbrush, from returning – if ever. And, we'll probably never get rid of the bromes.

Bob Sandberg and Dr. Despain discussed if the seed on the treated areas had been blown on or not. Dr. Despain noted that Brittlebush is the one shrub that seemed to be doing the best, but it is difficult to determine if it is from natural regeneration (from aerial reseeded) or the specific treatment of the study polygons.

Larry Crist discussed the future of the habitat, and asked Dr. Despain for suggestions on improving the study or post fire habitat rehabilitation. Dr. Despain explained that precipitation is the key and that at least nine inches of annual precipitation is needed for habitat to recuperate. He added that the typical lowland habitat within the Reserve receives about seven inches of annual precipitation. Dr. Despain briefly talked about soil stability and that the soil in the study plots is not too bad.

There were no other comments or questions and Chairman Wilson moved the agenda.

4. UTILITY AND DEVELOPMENT PROJECT REVIEWS

None.

5. GENERAL BUSINESS

a. Land acquisition efforts

Chairman Wilson asked Bob Sandberg to address this agenda item. Bob said that additional work had been done on the Red Cliffs Desert Reserve informational brochure and that he'd met with Mike Empey (Congressman Matheson's office) and Marreen Casper (Senator Hatch's office) and discussed the brochure and a cover letter. The objective is to seek support from the Utah congressional delegation with BLM's request for funding from the Land and Water Conservation Fund (LWCF) to purchase inholdings within the Reserve and the NCA. Bob invited Marreen Casper to comment on the status of the brochure and cover letter.

Marreen said that the informational brochures and cover letters were sent to each member of the congressional delegation. She added that Senator Hatch's office has prepared a letter to the Secretary of Interior and is in the process of getting signatures from delegation members – including Congressmen Jacobs and Bishop. Once the letter is sent to the Secretary of Interior and to BLM, a copy will be provided to the county.

There were no other questions or comments and the Chairman moved the agenda.

b. BLM planning update

Jimmy Tyree told the members that BLM received about 1,700 comments during the scoping period. The team working on the scoping project is in the process of reviewing and categorizing the comments; a report from them is due in mid August. The report will be reviewed through the end of August. The alternative development phase will begin in September with a kick-off meeting in the first part of the month. Jimmy added that as management ideas and schemes begin to develop the management partners and cooperating agencies will be brought in. Those meetings will likely begin in late September. Jimmy further noted that BLM is on schedule to complete the management plans and the transportation plan in the allotted three years.

There were no other questions or comments and the Chairman moved the agenda.

c. HCP review update (R. Chi)

Renee Chi began by explaining that this is the third phase of the overall HCP review that she is conducting. In the first two phases she reviewed fencing and environmental education, in this phase she is reviewing county-wide ordinances, law enforcement, and budget. Renee will also be reviewing the county's responsibilities in relation to the HCP and its administration. Renee used a PowerPoint presentation to facilitate her review update to the committee.

- **Ordinances:** First, Renee discussed the various ordinances that are either required by the HCP or were agreed to in the Implementation Agreement. Renee explained the necessity of the ordinances beginning with the requirement in the HCP that the county and the cities adopt an ordinance requiring a presence/absence survey and/or clearance within the defined incidental take areas.

Second, Renee talked about the ordinances agreed to in the Implementation Agreement that are intended to protect tortoises within the Reserve. Those ordinances include leash laws, firearms restrictions, a special development code for Ivins City in Zone 1, fencing/walls along the Reserve boundary, vehicle speed limits on Tuacahn and Cottonwood roads, and off highway vehicle (OHV) restrictions. The ordinances specify that a violation constitutes a Class B misdemeanor.

Renee's research showed which entities had adopted which ordinances. A summary of that research is shown in the following table.

Entity	Ordinances						
	Survey/ clearance	Leash law	Firearms restrictions	Fencing/ walls	Vehicle speed	OHV restrictions	Special dev Zone 1
Wash County	Yes	Yes	Yes	Yes	No	Yes	
St. George City	No	No	Yes (general)	Yes	No	Yes	
Wash City	No	No	Yes (general)	Yes	No	Yes	
Ivins City	No	No	No	No	No	No	Yes
Hurricane City	No	No	Yes (general)	No	No	Yes	
LaVerkin City	No						
Springdale	No	No	No				
Toquerville	No			No		No	
Leeds	No	No	No	No	No	No	
Santa Clara	No						
Gunlock	No						

Renee talked about general conclusions. Basically, a lot of the cities have incorporated the required ordinances where the language in the HCP is on the shoulders of the county to encourage the cities to incorporate the ordinances. Renee briefly talked about the reasons for the ordinances and the enforcement of the ordinances.

Reed Harris asked Renee if the Service was comfortable overall with the law enforcement effort, and is the county and are the cities doing what is expected in the HCP. Renee said that the ordinances are in pretty good shape but enforcement efforts are needed to ensure compliance with the HCP – which is difficult to measure. Renee went on to explain that enforcement efforts are being stepped up, and she stressed the importance of enforcement presence. Renee further stressed the importance of reaching out to the participating cities, and the developers, and educating them about the necessity of getting a presence/absence survey and clearance before developing within an incidental take area. She added that there is a provision in the HCP that allows the county to revoke coverage if a city is not complying and ensuring that their citizens within the take areas are also complying. That is why having an ordinance in place is so important.

- **Law Enforcement:** Renee continued by referring to Section 5.2.2 of the HCP which refers to law enforcement. She explained that the primary responsibility for law enforcement within the Reserve rests with UDWR and BLM. She added that enforcement has been stepped up in the last few years, there is still a need for more law enforcement presence, and education is an important element in gaining compliance.

Renee talked briefly about the budget. She noted that in researching expenditures she learned that the county has been following Utah’s general retention schedule for records and that records of expenditures are discarded after 10 years – which is a problem. This is being remedied by permanently retaining all financial records. Because some of the

financial documents have been discarded there is a lack of itemized expenditures and therefore an absence of accountability. It is also difficult to assess if HCP is on track. And, because of the absence of complete financial records, the HCP is unable to provide pertinent records relating to expended funds for the HCP implementation.

- Responsibilities: In the third portion of Renee's review presentation she discussed the county's responsibilities as outlined in the HCP. The HCP provides that the county commissioners will administer the plan and oversee the administrator and staff. Renee also explained that the process of releasing lands for development is at the discretion of the commission – the amount of acreage released for development depends on mitigation accomplishments.

Furthermore, it is the county's responsibility to acquire a conservation easement on in-holdings where the land cannot be purchased or exchanged; the commission must approve the administrator's facilitation of land acquisition, develop an interpretation and education plan, get participating cities to adjust for ordinances, and comply and enforce conditions of the permit. Additionally, the commission may issue and enforce stop work orders within its jurisdictional boundaries immediately upon notice of any grading outside the grading boundaries and may exercise this authority based on police power, the permit, or contractual agreements with cities or developers to enforce the HCP and conditions of the permit. Renee explained that this goes back to the requirement for a clearance prior to development. The question of jurisdiction was briefly discussed by Renee and Bob Sandberg. The issue of county jurisdiction over a city-permitted project has not been raised, but projects have been stopped when it was learned that a clearance had not been done before beginning development.

Lastly, it is the county's responsibility to organize an annual HCP implementation review meeting. Renee explained that she had not seen this responsibility before, and that it was not being done and should be. She added that once everything is figured out then it will be much easier to have these yearly review meetings. Renee asked for any questions.

Jimmy Tyree expressed concern that the cities generally do not have the ordinances requiring clearances and asked why it hadn't been brought up before and are the clearances being done as required by the HCP. Jeff Morby said that the county (HCP) is ensuring that property developments, even within the cities, are being cleared and developed according to the requirements of the HCP. Bob Sandberg talked about the HCP cooperating with the cities' governments and ensuring that the clearances were and are being completed before property development.

The members talked about the county's jurisdiction and the necessity of each city having an ordinance for clearances, or if the current HCP over-arching process is working sufficiently. The members agreed that the current process seems to be working, but talked about what to do if a violation occurs and there is no city ordinance and the county's ordinance cannot be enforced within the city limits – is there a loophole? Consulting the county attorney was discussed.

Jimmy Tyree was excused at 1:57 P.M. to attend another meeting.

Commissioner Gardner urged that the county attorney be contacted. He added that the development community is aware that a clearance letter is required prior to commencing development. The members briefly discussed impact fee payments.

Commissioner Gardner asked about the provision that the county commissioners may decide where and what acreage can be released for development; he noted that he does not recall the issue formally coming before the commissioners and that perhaps Bill (Mader) made the determinations. Reed Harris explained that it may be the limitation has never been reached so it has not become an issue.

There were no other questions or comments and the Chairman moved the agenda.

d. Technical Committee report (R. Chi)

Chairman Wilson called on Renee to address the two Technical Committee report items. She addressed item 2 and then item 1.

2. Progress report on determining limits of acceptable change

Renee Chi said that determining limits of acceptable change is an on-going process at each TC meeting. The members are currently sharing research on the subject. Their intent is to compose a recommendation at their next meeting.

1. 2011 budget recommendation

Renee Chi told the committee that the TC has provided budget recommendations to Bob Sandberg.

e. Administrator's Report – Bob Sandberg

1. HCP revenues and expenditures report (Exhibit 5-e-1-a)

Bob referred to Exhibit 5-e-1-a HCAC – 072710 and explained that it shows that HCP has spent nearly \$150,000 more than has been received in revenue, but that HCP has spent only 33% of the allotted budget while 58% of the year has elapsed. Bob added that the expenditures include encumbered funds for such expenses as UDWR's Reserve monitoring and Other Species funding for Southwestern Willow Flycatcher nesting success survey.

Bob noted that there may be some impact from deferred payment of impact fees until a Certificate of Occupancy (CO) is issued. Marc Mortensen mentioned impact fee collection and payments, and payment timing. The committee members briefly discussed long term impacts and consequences of the current economic conditions.

2. Draft 2011 budget (Exhibit 5-e-2-a)

Bob introduced Exhibit 5-e-2-a and explained that it includes the Technical Committee's recommendations. Bob discussed the line item increases and decreases. Reed Harris talked about deficit spending and that there may be times when it can be beneficial because costs may be lower and benefits higher.

Chairman Wilson asked for a comparison spreadsheet prepared for the next budget meeting that shows budgeted amounts and actual expenditures for 2008, 2009, and YTD 2010.

The committee members talked about future budgeting and creating a budget more in tune with actual spending. Commissioner Gardner said that it had been anticipated that there would be good years economically and not-so-good years and that we'd be drawing on the reserve account; and now because of the NCA there may be some federal funding. Bob Sandberg talked about ARRA (American Recovery & Reinvestment Act) funds that may be available to BLM.

3. Submit the quarterly report

Bob submitted the Quarterly Report for the members to review. He asked for feedback on the on the information provided, and what the members want and need, and added that adjustments can be made.

4. LWCF funding request support

This item was previously discussed, see agenda item 5-a pages 3 and 4.

5. *The Trails* property

Bob said that he has talked with Stacy Young about *The Trails* property within the Reserve (20 feet west of the west rim of Buckskin Wash). Bob explained that Stacy's asking price was \$70,000 per acre. Bob added that discussions will continue and that he has some materials being prepared so he can put together a request for proposals on the property appraisal.

There were no other questions or comments and the Chairman moved the agenda.

6. PUBLIC COMMENT & REQUEST FOR FUTURE AGENDA ITEMS

This item is reserved for items not listed on this agenda. No action may be taken on a matter raised under this agenda item. (Three minutes per person.)

Chairman Wilson invited the public to comment or request future agenda items. No one came forward and the Chairman moved the agenda.

7. **OTHER BUSINESS**

a. **America's Great Outdoors Initiative**

Larry Crist told the members that there will be a listening session in Salt Lake City regarding the America's Great Outdoors Initiative. He said that it will be an opportunity to express views on purchasing inholdings and suggested attendance by anyone that could. The session will be held at the Radisson Hotel on Tuesday, August 3rd from 10:00 A.M. to 1:15 P.M.

There were no other questions or comments and the Chairman moved the agenda.

8. **ADJOURN**

MOTION by Chris Blake to adjourn.
Seconded by Larry Crist.
Discussion: None.
Vote was taken: All voted aye.
Motion passed.

The meeting was adjourned at 2:23 P.M.

Minutes prepared by Brad Young.