

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 **OCTOBER 27, 2009**.

Committee members present were:

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

Absent and excused was:

Karl Wilson, Chairman	Mayors Association
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Also present were:

Brad Young	Washington County HCP
Ann McLuckie	Utah Div. of Wildlife Resources (UDWR)
Paul VanDam	Interested citizen
Lisa Rutherford	Interested citizen
Bob Douglas	Bureau of Land Management
Mike Empey	Congressman Matheson's office
Bryan Thiriot	Senator Bennett's office
Dallin Gardner	ELT Properties
Bob Brennan	ELT Properties
Allan Carter	Carter Family Trust
Cameron Rognan	Washington County HCP
Alan Gardner	Washington County Commissioner
Bret Boyce	Student
Tyler Hoskins	Parsons Brinckerhoff
Ben Clegg	Rocky Mountain Power

1. CALL TO ORDER

Vice Chairman Blake noted that at least five voting committee members were present and a quorum existed. Vice Chairman Blake further noted that Chairman Wilson was absent and excused because he was in a meeting with the Washington County Water Conservancy District. Vice Chairman Blake called the meeting to order at 1:00 P.M.

2. CONSENT AGENDA

- a. **Approval of the agenda**
- b. **Review and approve minutes**
 - 1. September 22, 2009
- c. **Next meeting date**
 - 1. November 24, 2009

MOTION by Larry Crist to approve the Consent Agenda.
Seconded by Jimmy Tyree.
Discussion: None.
Vote was taken:
All voted aye. Motion passed.

3. PRESENTATIONS

None.

4. UTILITY AND DEVELOPMENT PROJECT REVIEWS

- a. **Red Hills Parkway widening** – status and schedule – City of St. George

Marc Mortensen provided a brief update on the project. He explained that the Environmental Assessment (EA) has been completed. The next step is to bid out the project. The City plans to do this according to the federal highway procedures. The project planning continues and construction should begin in late 2010 or early 2011.

Larry Crist added that the City and the USFWS continue to work out the details. It is anticipated that Washington County will hold the Conservation Easement (CE) on the five-acre mitigation parcel located southeast of the intersection of the Red Hills Parkway and Bluff Street (SR18).

- b. **Middleton 24 power line upgrade** – Rocky Mountain Power – Exhibit 4-b-1 HCAC – 102709

No one was present from Rocky Mountain Power to provide the presentation.

MOTION by Reed Harris to continue this agenda item until someone from Rocky Mountain Power arrives to make the presentation.
Seconded by Marc Mortensen.
Discussion: None.
Vote was taken:
All voted aye. Motion passed.

5. **GENERAL BUSINESS**

a. **ELT Properties – discussion** – Brennan, Cater and Gardner

MOTION by Reed Harris to continue this agenda item until someone ELT Properties arrives to discuss the issue.

Seconded by Marc Mortensen.

Discussion: None.

Vote was taken:

All voted aye. Motion passed.

b. **Omnibus Public Lands Management Act of 2009** – Update and status

Jimmy Tyree summarized BLM's progress in implementing the provisions of the land bill since it became law last March. Jimmy briefly described several topics of progress:

- Communications Plan: Progress continues in the development of the Communications Plan. Specific areas of development include:
 - Public Education,
 - Public Outreach, and
 - Fact Sheets for:
 - The new NCLS components, and
 - A hunting fact sheet relating to the new NCAs.
- Portal signs: New portal signs are being designed; two for the Beaver Dam Slope NCA and four for the Red Cliffs NCA.
- Visitor use map: Graphics and photos are being incorporated into the design, cartography and production of a county-wide visitor use map. This includes the two NCAs, wilderness areas and the wild and scenic rivers. This map is not intended to replace the Red Cliffs map and trail guide.
- Wilderness addition: BLM has coordinated with Zion National Park on the transfer of the recently designated wilderness addition to the Park, and the management plan development.
- Fencing: Funding is being secured to fence the urban interface boundary with the wilderness areas.
- Resource Management Plan (RMP) amendment: BLM has completed the pre-plan and budget for the amendment. BLM continues to progress in the process of amending the RMP. This will include the management plans for the wild and scenic rivers, the NCAs and the wilderness areas. The firm of Booz, Allen and Hamilton has been selected to facilitate the amendment development. A kick-off meeting will be held in November.
- Travel Plan: BLM's GIS is working on the graphics in preparation for revising the Travel Plan.
- Land disposals: BLM has identified the parcels, acreage and configuration of the properties to be disposed. The issues associated with those parcels have also been identified. Those issues include NEPA requirements, cultural/artifacts existence, presence of threatened or endangered species, environmental site assessments and cadastral survey needs. There are approximately 6,000 total

acres to be disposed of. The first group of properties (~12) is about 600 acres. The issues associated to the properties will be address concurrently as much as possible and not sequentially. This will make the process more efficient and expeditious. The budget for the land disposals is also being developed.

- Land conveyances: The land conveyances with Hurricane City (city park), City of St. George (Temple Quarry), Washington County (Purgatory addition) and the Shivwits Band are almost ready for patent transfer.
- Staffing: Two of the Park Ranger/Rec Tech positions have been filled, and the interviews for the additional law enforcement ranger, biologist and outdoor recreation planner have all been completed. Those positions will be filled in the next 30 to 60 days.

4. b. Middleton 24 power line upgrade – Rocky Mountain Power – Exhibit 4-b-1 continued.

Ben Clegg introduced himself as a project manager for Rocky Mountain Power (RMP) and the manager for this project. Ben explained the proposed project and added that the new upgraded line will run parallel to the existing line, and access will be by the existing access road. Ben further added that RMP has secured a permit from BLM and has been granted a conditional use permit by Washington County. Ben noted the presence of Holmgren Milkvetch (*Astragalus holmgreniorum*) and Mojave Desert tortoises in the area of the project. Ben explained that their intention is to do weekly surveys and clearances as the project progresses. He said that their biologist will delineate sensitive plant and animal locations.

5. c. Discuss and review Rocky Mountain Power's proposal to upgrade the Diamond Valley to Black Gulch power line – Exhibit 4-b-1 HCAC - 102709

Bob Sandberg informed the members that the project was originally applied for in 2001. Bob explained that the first two phases of this three-phase project were completed several years ago and current HCP staff was unfamiliar with the project when Phase 3 was proposed. Bob added that he would like to meet with RMP representatives to review the Environmental Assessment and the Biological Opinion.

Jimmy Tyree and Larry Crist both added that their respective agencies would need a week or two to review the proposal due to the age of the original approval.

The role of the TC in utility developments was discussed. Bob Sandberg outlined the process, which includes the TC's review and recommendation. Ann McLuckie said that she would like to confirm that this is the same project that she recalls from several years ago.

Bob Douglas talked briefly about the presence of *Astragalus*, and the project location in critical habitat areas. He clarified that this Phase 3 of the project is mostly in the upland zone of the Reserve and so would not pass through *Astragalus* habitat.

The HCAC members agreed to approve the project pending review by BLM, USFWS and the Technical Committee.

MOTION by Marc Mortensen to assign the Technical Committee the task of reviewing and evaluating the project. The project is approved to begin December 1, 2009, pending a favorable review by the TC, and internal review by BLM and USFWS.
Seconded by Reed Harris.
Discussion: None.
Vote was taken: All voted aye.
Motion passed.

5. a. ELT Properties – discussion – Brennan, Cater and Gardner

Bob Brennan introduced himself and added that as of December 2, 2009, he hopes to be in charge of resolving the assets of ELT properties, which has been in bankruptcy since June 2004. He will be wholly in charge of the reorganized ELT properties.

Mr. Brennan told the members that they had a good meeting with the County Commissioners yesterday. Mr. Brennan said that he thought the meeting went very well. Mr. Brennan expressed a strong desire to resolve the issues with the ELT properties because it has been going on for 14 years; he has been involved for the last 12 years. Mr. Brennan explained that he is the only creditor, except Allan Carter who owns about 200 acres within the Reserve.

Mr. Brennan told the members that they had an appraisal done three years ago and the ELT properties appraised at \$142,000,000.00. He added that with current market prices the value may be down to half of that. Mr. Brennan went on to explain that in the meeting yesterday it was obvious that the county feels that the ELT/Carter properties are an integral part of the Reserve, and as such, cannot be removed or developed. The only option remaining is to be paid for the land. Mr. Brennan has asked the County Commissioners for financial assistance, and if that is not available, then a letter so stating. With that letter they may go to Washington D.C. and see what can be done at that level. Mr. Brennan asked the HCAC for support. He asked that the HCAC continue to seek funds through the Land and Conservation fund and applying for Section 6 monies. He also asked, if necessary, for letters from the HCAC explaining that compensation cannot be accomplished at this level. The added documentation will assist his efforts in Washington D.C.

Reed Harris said that he and Larry Crist have discussed trying to use Section 6 monies, and added that the State must come up with at least a 25% match – which may require encumbering State lands, perhaps even Snow Canyon State Parks lands. Reed added that the HCP has received about \$25,000,000.00 in Section 6 funds over the years for land acquisition, but a couple of years ago the grant applications were denied. Larry said that now might be the right time to reapply.

Reed said that for the record, he feels that the ELT/Carter properties are essential to the Reserve and that they are the heart of the Reserve. He added that the properties are needed and it has taken too long to get the funding to pay for the properties, and that the HCAC is willing to help in any way they can. He'll go back to the people that he works with and seek additional support.

Mr. Brennan reiterated his need for HCAC support in the form of a letter to assist him in approaching Washington D.C., and possibly the Secretary of the Interior.

Larry Crist expressed his support, and that of the USFWS, in resolving the ongoing issue. He added that the USFWS feels strongly that the (ELT and Carter) properties are critical to the Reserve and its continuance. Larry reiterated his support and added that a federal agency cannot lobby Congress but he is willing to support Mr. Brennan in any way possible. Mr. Brennan expressed his appreciation and added that he hopes to set up meeting with Selma Sierra and with the Secretary of the Interior. Larry asked that he be informed if a meeting with the Secretary of the Interior was scheduled so he, and BLM, could brief their respective chains of commands.

Jeff Morby asked Mr. Brennan to clarify his position as of December 2, 2009. Mr. Brennan explained that the ELT properties will still be owned by Jim Doyle but all decision-making will be done by him (Mr. Brennan).

Allan Carter spoke briefly. He told the members that he supports Mr. Brennan, and that SITLA also supports his position as ELT trustee during the bankruptcy proceedings. Mr. Carter added that there should be support from both sides of the aisle in Congress in resolving the issue of compensating them for property that was wrested from them over a dozen years ago. He said that this situation shows the government's inability to properly fund HCPs.

Mr. Carter explained that Bob Brennan is a creditor against the ELT properties and that he, Mr. Carter, is a co-owner with Jim Doyle. They feel the time is right for action, but they are becoming impatient. They are at the end of their rope.

Commissioner Alan Gardner told the members that they had a good meeting yesterday and that letters are being prepared, and that he supports the State's efforts to acquire matching funds (for Section 6 monies).

The committee members agreed to assist and expedite the process of in any way that they could.

d. Final review of the proposed 2010 budget (Exhibit 5-b-1)

Bob Sandberg informed the members that he is scheduled to meet with Washington County Clerk Kim Hafen tomorrow to submit the final draft of the 2010 HCP budget, and that today is the last chance to make changes before it is submitted.

Bob explained that revenues continue to be significantly less than expected because of the poor economy. Bob added that the 2010 budget is \$400,000.00 less than the 2009 budget. The 2010 budget is more in line with actual expenses and expenditures. Jeff Morby briefly discussed balancing the budget by withdrawing from the reserve account.

MOTION by Larry Crist to approve the draft budget as presented.

Seconded by Jeff Morby.

Discussion: Marc Mortensen asked about line item 445 – BLM Realty Specialist funding. Jimmy Tyree said that he should know if the funds are needed, and the status of the federal budget, in about a month. The members discussed adding \$50,000.00 to the 2010 budget so the funds are available if needed.

AMENDED MOTION by Larry Crist to add \$50,000.00 to line item 445 and approve the draft budget.

Amended motion seconded by Jeff Morby.

Further discussion: None.

Vote was taken: All voted aye.

Motion passed.

e. Gila Trail extension – Technical Committee recommendations – Ann McLuckie

Ann McLuckie distributed Exhibit 5-e-1 HCAC – 102709 and used Exhibit 3-a-2 HCAC Reg Mtng – 082509 to explain the proposed Gila Trail extension route. Ann further explained to the members how the Technical Committee had walked the proposed route on October 13th and found that the terrain is higher in elevation than that of typical tortoise habitat.

Ann added that horses should not be allowed because of slick rock and that mountain bikes are not recommended due to soil and terrain. She further added that the TC will reconvene to discuss mountain bike use and consider potential habitat impact.

Bob Sandberg explained to the members the problems for mountain bikers and the equestrians, and that topography and terrain are just not compatible with those modes. Bob added that he has an appointment with Laura Taylor of St. George City to find out what their recreational plans are for the area being discussed.

Chris Blake asked if the Public Use Plan needed to be amended. Ann McLuckie said that it does not because there are no negative impacts to tortoises. Chris suggested consulting the PUP just to make sure.

The members asked for a final Technical Committee recommendation on the final proposed trail alignment, access points and permitted users.

Commissioner Gardner voiced support for the trail extension and an alignment that accommodates equestrian use. He asked if the proposed alignment follows that which was proposed by John Ibach. Ann said that it does – generally. Commissioner Gardner reiterated his support for an equestrian user alignment.

f. Administrator's Report – Bob Sandberg

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

The committee members reviewed and discussed Exhibit 5-f-1-a HCAC – 102709. Bob explained that there is approximately \$150,000.00 to \$160,000.00 in encumbered funds. Bob added that he anticipates that HCP will spend about 50% of the allotted budget for 2009. He further added that revenue projections for the remainder of 2009 and for 2010 are uncertain.

2. HCP biologist position – status

Bob informed the members that Cameron Rognan has been hired. Cameron introduced himself to the members and provided a brief summary of his résumé. He explained that before being hired by Washington County HCP he was working in the ornithology department at Cornell University in upstate New York. Before that he was working as a biologist at Fort Irwin, California. He received his master's degree at Humboldt State in northern California. His undergraduate education was at BYU. Cameron has previously worked for Ann McLuckie and Rick Fridell at UDWR.

3. TC membership proposal (Exhibit 5-f-3-a)

Bob explained Exhibit 5-f-1 HCAC – 102709 and added that the proposed TC membership amendment was approved by the HCAC last meeting and that the proposed language was sent out via email to all of the HCAC members. Bob has heard back from some, but not all of the members.

The members agreed that the proposed amendment language was acceptable and should be sent to the County Commission for approval. (See the approved motion on page 4 of the HCAC minutes of 9/22/09.)

4. Agreements for TNC and for UDWR

Bob briefly talked about the annual agreement for tortoise monitoring with UDWR (\$80,000.00) and the agreement with The Nature Conservancy (\$50,000.00) for completion of fencing the White Dome to protect T&E plant species.

5. 3rd Quarter Report

Bob submitted the 3rd Quarter Report to the committee members for their review. The report will be on next month's agenda for discussion and acceptance.

Marc Mortensen asked about the tortoise that was hit by a vehicle on the Red Hills Parkway. Commissioner Gardner explained that he happened on the scene not far from the intersection with SR18. The tortoise was seen by a St. George police officer's wife

after it had been hit. She and Commissioner Gardner stopped. Commissioner Gardner turned the tortoise over to HCP staff.

Bob also briefed the members on the tortoise struck by a vehicle on SR18 near Dammeron Valley.

6. **OTHER BUSINESS**

None.

7. **ADJOURN**

MOTION by Marc Mortensen to adjourn.

Seconded by Larry Crist.

Discussion: None.

Vote was taken: All voted aye.

Motion passed.

The meeting was adjourned at 2:10 P.M.

Minutes prepared by Brad Young.