

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 **NOVEMBER 24, 2009**.

Committee members present were:

Karl Wilson, Chairman	Mayors Association
Chris Blake, Vice Chairman	Environmental Organization
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 (USF&WS)
Jeff Morby	Local Development

Absent and excused was:

Jimmy Tyree	Bureau of Land Management (BLM)
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Also present were:

Brad Young	Washington County HCP
Ann McLuckie	Utah Div. of Wildlife Resources (UDWR)
Kristen Comella	Snow Canyon State Park
Mike Empey	Congressman Matheson's office
Marreen Casper	Senator Hatch's office
Dallin Gardner	ELT Properties
Cameron Rognan	Washington County HCP
Alan Gardner	Washington County Commissioner
Eric Holt	JBR Environmental Consultants
Waid Reynolds	HCP Trail Steward
Sherrie Reynolds	Interested citizen
Unidentified female	Interested Ivins resident

1. CALL TO ORDER

Chairman Wilson noted that at least five committee members were present and a quorum existed. Chairman Wilson also noted that Reed Harris would be a few minutes late because he was in another meeting. Jimmy Tyree was absent and excused. The meeting was called to order at 1:00 P.M. Reed joined the meeting at 1:17 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. October 27, 2009
- c. **Next meeting date**
 - 1. January 26, 2009

MOTION by Chris Blake to approve the Consent Agenda.

Seconded by Marc Mortensen.

Discussion: None.

Vote was taken:

All voted aye.

Motion passed.

3. **PRESENTATIONS**

None.

4. **UTILITY AND DEVELOPMENT PROJECT REVIEWS**

- a. **Rocky Mountain Power – Middleton 24 project (TC report)**

Ann McLuckie reported to the committee that the Technical Committee (TC) recommends that if a track-mounted impact auger or blasting is necessary to create the holes for the new power poles, either method is acceptable as long as Rocky Mountain Power (RMP) uses the method that causes the least impact to the habitat.

Ann added that the native seed mix will be approved by BLM and the HCP Administrator. Ann further reported that JBR will check on the construction sites and progress to assure compliance to the established protocols. Initially they will check daily and thereafter once or twice per week. Tortoise Awareness Training will also be provided by JBR and a list of the individuals trained will be forwarded to HCP administration.

Bob Sandberg noted that the TC report was in response to a motion passed by the HCAC at their last meeting in which the project was approved pending a favorable review by the TC. Bob added that most or all of the power line upgrade is in the Upland Zone.

5. **GENERAL BUSINESS**

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

Bob Sandberg said that Jimmy Tyree provided a pretty comprehensive run down last month on BLM's progress in implementing the provisions of the Land Bill since it became law last March. Chris Blake asked if anyone has heard from Bob Brennan regarding a letter of support from the HCAC. No one has heard from him.

b. White Reef Park development (J. Tyree).

Bob Sandberg informed the members that Jimmy Tyree wanted the HCAC to hear this agenda item because there are American Recovery and Reinvestment Act (ARRA) funds available, but those funds may be lost if construction is not committed to by the end of December.

Bob briefly described the White Reef project and the parking areas, trail access for biking and hiking, and the shade pavilions. Bob also mentioned the Environmental Assessment (EA) that has been released for public comment.

Chris Blake asked about financial participation by the HCP. Bob explained that HCP had paid for a consultant (Alpha Engineering) to do the initial work on the EA. Other than that, because of the ARRA funding that has been acquired, BLM has not asked for any additional financial resources. Chris also asked if the TC has looked at the project. Bob explained that the TC is aware of it, has seen the presentation, and has discussed it and that no one has expressed any concern regarding it. Bob did not recall if there was a formal vote on the project. Bob noted that there is sensitive habitat in the area and Shivwits Milk-Vetch (*Astragalus ampullarioides*) nearby. BLM has made efforts to align the trails to minimize impact to the habitat.

Larry Crist said that USFWS has received the EA but hasn't had a chance yet to review it. Renee Chi will coordinate with the TC if there are any concerns.

MOTION by Chris Blake that the HCAC support the White Reef development project pending completion of the Environmental Assessment process.

Seconded by Larry Crist.

Discussion: Larry and Chris clarified that HCAC support is contingent on the opportunity to review the EA and comment as necessary, and if there are any "show stoppers", then the environmental processes will hold up the project until the issues are resolved.

Vote was taken: All voted aye.

Motion passed.

c. Gila Trail extension – Technical Committee recommendations (Ann McLuckie).

Ann McLuckie reported on the final trail alignment, permitted users and access points. She used Exhibit 5-c-1 HCAC – 112409 to illustrate the trail alignment and the access points. The Exhibit was modified to show the eastern side of the loop between Points 1 and 3 conforming to the State Park's boundary.

Ann explained that due to the rugged nature of the trail and the unsuitability for horses and mountain bikes, bikes will not be permitted north of Point 3, and horses will not be permitted between Point 3 and Point 45. Horses are allowed south of Point 3 and north of Point 45. Hikers will be allowed on all portions of the trail.

The access points for the trail will be from the Chuckwalla Trailhead, the Snow Canyon Overlook off of SR 18 and the parking lot at the north Snow Canyon S. P. entrance. A fourth access point will be pursued. The preferred and logical location is at the borehole gate, although there are other possibilities.

The final trail alignment will be basically as shown on the Exhibit, except for the eastern side of the loop between Points 1 and 3 which will conform to the State Park boundary.

Chris Blake asked for clarification on where horses will be allowed. Ann explained that they are allowed on the southern portion of the Gila Trail up to Point 3 and on the northern portion from the parking lot at the north Snow Canyon S. P. entrance south to Point 45. Bob Sandberg added that horses are allowed all the way up from Paradise Canyon to Point 3. Ann said the distance is approximately three miles, and she added that the trail from point 45 north to the parking lot at the north Snow Canyon S. P. entrance has not been mapped.

Larry Crist asked about the reason for not permitting horses between Points 3 and 45 – is it for safety or biological reasons? Kristen Comella explained that the interior of the trail is in a canyon and that it is rocky, rugged and unsuitable for horses and bikes. She added that there is no practical way to build a trail that would be suitable for horses and bikes.

Larry asked about possible enforcement problems. Ann explained that it is just not an attractive trail for mountain bikers.

MOTION by Chris Blake to accept the proposal for the Gila Trail extension as presented today.
Seconded by Marc Mortensen.
Discussion: None.
Vote was taken: All voted aye except Reed Harris who abstained because he had just joined the meeting.
Motion passed.

d. Confluence Park Interim Management funds (Wilson/Sandberg).

Bob Sandberg explained that there is \$8,000.00 budgeted for 2009 and \$8,000.00 proposed for 2010 to fund fencing, maintenance and projects at Confluence Park. Bob further explained that Confluence Park is struggling to get funding to accomplish the things necessary. Bob added that the Ash Creek Special Services District (ACSSD) is opening a trench to install a wastewater line in an easement through the Park and that

this is a significant money-saving opportunity to partner with ACSSD and install a secondary water line in the same trench to irrigate some of the agricultural fields in the Park. This will add greenery to the Park, increase the aesthetic value of the Park, and make it more conducive to public use. Bob asked for the committee's feelings about using those funds to hire a grant writer to procure funds to help get the water system in and develop the Park and help fulfill the Confluence Park Plan.

Chris Blake asked if a grant writer had been selected – one has not. Chris recommended Kathleen Nielson.

Jeff Morby asked about ownership of the Park. Karl Wilson explained that Washington County owns the property and that there are three conservation easements held by the Utah Department of Natural Resources. Karl added that the Park is managed by an interlocal agreement between Hurricane, LaVerkin, Toquerville and Washington County.

Reed Harris asked about the source of the Confluence Park funds – is it from the Other Species fund? Bob Sandberg explained that Confluence Park funds are in their own line item in the budget. Larry Crist asked how this ties into the HCP. Reed answered saying that when the HCP was originally established, there were other plant and wildlife species that were, and are in danger of becoming threatened or endangered, and many thought that if that happened another HCP would have to be created. That is why the Other Species fund was established. It is an effort to keep other species from becoming listed. Some of those species are at Confluence Park. Reed advocated that the Confluence Park funds are well-spent on other species.

Bob Sandberg added that the Confluence Park funds are a separate line item but are treated as Other Species funds when monies are expended. Bob further added that Steve Meisner participates in the Confluence Park meetings and has interests in other species in and along the Virgin River. Larry clarified that the benefit of the Park is not necessarily recreational, but biological for other species. Larry added that if that is the case, then he can support Confluence Park funding.

Jeff Morby asked about the chances of actually getting a grant. Bob Sandberg said that it is difficult to really tell, but there are funds available at various sources and hopefully the chances are pretty good. Karl Wilson added that they are hoping to get \$80,000.00 to \$100,000.00 for laying the irrigation line.

The members discussed using funds from the 2009 budget, but that is not likely because the year is almost at an end. More likely the funding for the grant writer will come out of the 2010 budget.

Chris Blake mentioned that there is another 166 acres that they (Virgin River Land Preservation Association) are interested in acquiring and adding to Confluence Park. This parcel wasn't for sale when the Park was originally established, but it is for sale now. Chris further clarified that the term 'park' means different things to different people. In the case of Confluence Park, it is a nature park, not necessarily a recreation park.

MOTION by Chris Blake to support using Confluence Park funds to hire a grant writer and move forward with developing the Park the way it was envisioned when it was acquired.

Seconded by Jeff Morby.

Discussion: No specific grant writer's name will be included in the motion.

Vote was taken: All voted aye.

Motion passed.

e. Review and discuss the 3rd Quarter Report (HCAC).

Bob Sandberg reminded the members that the report had been submitted last month as required by the HCP. Larry Crist said that the Service has questions about specific tortoises mentioned in the report. Bob explained that he had the same questions from Renee Chi and that she and him have been trying to link up for a couple of days. Bob further explained that both tortoises that had apparently been struck by vehicles had survived. One is being cared for at the Temporary Care Facility and the other one will over-winter at the HCP offices. Larry asked for additional specificity in future reports on tortoise incidents.

Jeff Morby had questions about the Education and Outreach program. He asked about plans for the future. Bob Sandberg explained that Tom Webster and Lauren (Hunt) Pejza are both part-time employees. He added that presentations and outreach opportunities are declining during the inactive season but Tom and Lauren continue working with the media and ads in *The Spectrum*, scheduling and preparing for presentations in the Spring, and working with our partners and the volunteers.

MOTION by Larry Crist to approve and accept the Quarterly Report.

Seconded by Reed Harris.

Discussion: None.

Vote was taken: All voted aye.

Motion passed.

f. Discuss a response letter to Bill Mader's letter (HCAC).

Bob Sandberg talked about the letter written by Dr. Mader to the U.S. Fish and Wildlife Service and the Bureau of Land Management (October 29, 2009) asserting certain allegations and how the County shouldn't be involved with the management of the HCP. Bob explained that the County has responded (November 13, 2009) and that the HCAC minutes of July 17, 2007 address the issues of funding the UDWR building and the contribution to Vision Dixie. Bob asked if the HCAC had any feelings about responding to the letter, and added that UDNR has already responded in writing.

Reed Harris explained that he felt it necessary, as Director of the Virgin River Recovery Program, to respond in writing to the letter because of the involvement of the building.

He further explained that he directed his response comments to the building itself. Reed said that he was disappointed in the letter and found it to be inaccurate. He added that he felt it was necessary to respond, especially to those who also received the Mader letter. Reed further added that in his view there are two ways to handle the issue. First is to ignore the letter and let the F&WS manage it; and if they have concerns about how the HCP is run, let them review the operations and management. Or, draft a response letter. Reed complimented the County's reply (November 13, 2009) and offered to draft a reply letter from the HCAC, or not. He's agreeable to the HCAC responding or the HCAC not responding.

Larry Crist also complimented the County's response and suggested that may be all that is necessary at this level. Larry noted that the F&WS Regional Director will be preparing a response to Dr. Mader. Larry added that the Service has considered conducting a review or audit of the HCP, especially since it has passed its mid-point. Larry left the door open for a possible future audit, but commented that he is satisfied with the County's response and is not sure that anything further is necessary at this time.

Commissioner Gardner addressed the members and some of the other issues that had not been discussed. Commissioner Gardner told the members that the Northern Corridor had been in the St. George City's master road plan for many years and that if it wasn't included in the Land Bill, then the mayors of St. George and Washington were going to oppose the Bill. Mr. Gardner added that Rick Fridell had once scouted a route for the Northern Corridor that would be the least offensive to the HCP. Marc Mortensen, referring to the Northern Corridor, said that the letter is incomplete and doesn't tell the whole story and there were many concessions made. Reed added that several of the HCAC members made a field trip to look at the possible route and there were at least three members who were opposed to it.

Larry Crist, referring to the Mader letter, said that he hasn't heard too much more from his superiors, and there has been no feedback from the other parties (who were copied on the letter). Reed commented that as the NCA develops we need to stay the course and stay actively engaged. Reed advocated for continued joint management of the permit. He commented that it is unrealistic for the partners to drop out of the management and just drop it on BLM. That can't be done because there is still joint ownership of the lands within the Reserve. Larry concurred.

Reed also talked about lands owned by the State that were purchased with Section 6 monies that BLM cannot administer because they are a federal agency. Commissioner Gardner said it was always the intention in the Land Bill and the creation of the NCA that the County would remain involved in the management of the HCP.

The members continued to discuss the letter written by Bill Mader and options for responding to it. Larry suggested responding to a couple of specific points, but not a point-by-point reply. Reed advocated a letter stating how the HCAC envisions future management of the HCP. Larry brought up the point that he and Jimmy Tyree are

federal employees and it is up to their respective agencies to take a position and not theirs as an employee. Marc Mortensen brought up the point that the HCAC is an advisory body and that a reply should come from the governing body, in this case Washington County. Marc does not support a response coming from just the HCAC. Jeff Morby said that it seems that Bill Mader is advocating that the NCA be solely managed by BLM, but that is odd because Bill Mader participated in all of the meetings and seemed to support the direction and management of the HCP. Jeff said the letter sounds like sour grapes and restated Marc's point that the HCAC serves as an advisory body to the County.

Reed stressed that Washington County is in compliance with the permit and that BLM cannot technically administer lands purchased with Section 6 monies. Reed added that the USF&WS and BLM have a Section 7 relationship. Larry added that the HCP was created under Section 10 with the responsibility to foster relationships with the participating agencies and with the public.

MOTION by Chris Blake to do nothing about the letter.

Question by Jeff Morby about what would happen if the HCP were halted or abandoned; wouldn't each developer or landowner have to develop their own habitat plan? And wouldn't that be extremely expensive and time-consuming? Isn't that why the Washington County HCP was created? Reed responded by saying that without the HCP we would be right back to 1995 and each property owner would have to deal with the USF&WS on an individual basis – which makes no sense. Reed added that the permit has a life of twenty years and Washington County certainly won't be built-out in the next six years, so at that time a decision will have to be made about continuing or not.

There was no further discussion. The motion died for lack of a second.

g. Administrator's Report – Bob Sandberg

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

The committee members reviewed Exhibit 5-g-1-a HCAC – 112409. Bob explained that HCP is under budget, but has spent more than what has been received in revenues. The committee complimented Bob on his budget management.

2. TC membership correction

Bob informed the members that the Technical Committee membership correction was approved by the County Commissioners on November 3, 2009. Section 6.2.4 of the HCP was amended as follows:

6.2.4 Technical Committee (Revised)

Members of the TC shall serve at the discretion of the Washington County Commission and will include the HCP biologist; a local biologist; and representatives from the UDWR, BLM, USFWS, Snow Canyon State Park, and the USGS (or similar entity). The agency representatives will be nominated to the committee by their respective agencies, except for the USGS, or the “Open-entity” position, which will be nominated by the HCAC. TC representatives shall be approved by the Commission. The TC will be available to the HCP Administrator and the HCAC on an as-needed basis to provide biological information on endangered, threatened, and candidate species. The TC will participate in the initial development of the annual work plan by recommending how the amount of money allocated annually for mitigation should be expended. They will involve other specialists as necessary; however, all expenditures identified by the TC must be approved by the HCAC. The chairperson of the TC will be determined by the committee members and rotate annually. [Amended by the HCAC on 5/24/05 and approved by the County Commission on 7/12/05. Amended by the HCAC on 10/27/09 and approved by the County Commission on 11/3/09.]

3. Red Butte – Middleton power line

Bob explained that Rocky Mountain Power is working south from the Upland Zone towards the old turkey farm area. They are drilling holes and preparing footings for the new power poles. The work is being monitored by JBR and by HCP. So far there are no problems. The project is moving along with a goal of being completed by the middle or end of February.

4. Washington City Mill Creek Well #3

Bob said the drilling rig was moved in this past week. There is no drilling activity but the site is secured by fencing. Jeff Morby asked about the continuing problems with this well. Bob explained that the well has been refurbished once already and if their current attempts are not successful, then the well may have to be redrilled.

5. Internet based forum for law enforcement

Bob noted that the interactive law enforcement database for reporting suspicious activity is being developed by Washington County IT. It is being patterned after the bird mortality database used by USF&WS. Marc Mortensen asked if it is a *Spillman* module. Bob replied that it is not, it is a standalone system. Larry Crist added that it is a multi-jurisdictional way of bringing information together for the benefit of the Reserve.

6. **OTHER BUSINESS**

a. **Deer fatalities on Red Hills Parkway**

Marc Mortensen informed the committee members that seven deer have been hit by vehicles on Red Hills Parkway in the last week or so. Most of the incidents have been near the debris retention structure. Caution signs will be going up soon.

b. **Pre-legislative session**

Karl Wilson noted that there is a pre-legislation session with local state legislators scheduled for this evening in the Washington County Commission Chambers. Karl urged everyone to come out and participate.

7. **ADJOURN**

MOTION by Marc Mortensen to adjourn.

Seconded by Chris Blake.

Discussion: None.

Vote was taken: All voted aye.

Motion passed.

The meeting was adjourned at 2:11 P.M.

Minutes prepared by Brad Young.