

# 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 **February 25, 2014**.

Committee members present were:

Chris Blake, Vice Chairman	Environmental Organization
John Bramall	Mayors Association
Henry Maddux	Utah Dept. of Natural Resources (UDNR)
Chris Hart	Local Development
Bob Sandberg	HCP Administrator

Absent and Excused:

Larry Crist	U.S. Fish & Wildlife Service (USFWS)
Jimmy Tyree	Bureau of Land Management (BLM)
Marc Mortensen	Citizen-at-Large

Also present were:

Amber Stocks	Washington County HCP – Recorder
Cameron Rognan	Washington County HCP – Biologist
Alan Gardner	Washington County Commissioner
Jodi Borgeson	Washington County Attorney's Office
Ann McLuckie	Technical Committee Chairman (DWR)
Lisa Rutherford	Citizen
Paul VanDam	Citizen
Jim Raines	Bush and Gudgell
Mike Small	Citizen
Kyle Paisley	SITLA
Seth Topham	JBR

**1. CALL TO ORDER**

Vice Chairman Chris Blake called the meeting to order at 1:00 p.m. noting that a quorum was present.

**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 Agenda**
- b. **Review and Approve Regular Meeting Minutes**
  1. **January 28, 2014**
- c. **Next Meeting Date**
  1. **March 25, 2014**
- d. **Declaration of Conflicts of Interest**

**MOTION** by Chris Hart to approve the consent agenda.

Seconded by John Bramall.

Discussion: None.

Vote was taken: All voted aye.

Motion passed.

### 3. **PRESENTATIONS**

#### a. **Red Cliffs Desert Reserve Website Presentation (Cameron Rognan)**

Cameron Rognan showed the Reserve's website to help the HCAC become more familiar with information that is available and how to access it. The website can be found at: [www.redcliffsdesertreserve.com](http://www.redcliffsdesertreserve.com). This is an excellent resource for the public on how to enjoy the Reserve. There are tabs at the top of the website that allows users to access different pages. Some of the more common tabs and what they contain are:

Explore the Reserve tab:

- Maps and trail descriptions: this page has downloadable maps, trail descriptions and other valuable information.
- Wildlife: this page gives videos and information on common wildlife in the Reserve.

Get involved tab:

- Public meetings: this page shows HCAC and TC committee information, why they were established and how they function.
- Meeting minutes: this page has 2008-2014 meeting agendas and minutes.

More information tab:

- Specific information for hikers, bikers and equestrians.
- Links, Forms, Take Areas: this page has links to partnering agencies and other important links pertaining to the desert tortoise. The forms section contains the HCP document, the public use plan, the utility development protocol, compensation for the desert tortoise, clearance request forms, etc.
- FAQs: this page answers common questions the public may have.

Contact tab:

- This page contains contact information for the HCP, BLM, DWR and Snow Canyon State Park.

Confluence Park tab:

- The HCP manages Confluence Park and this page gives information about the park along with a map and directions to the park.

The HCAC suggested using the website to attract more users to the HCP visitor center.

4. **UTILITY AND DEVELOPMENT PROJECTS**

a. None

5. **GENERAL BUSINESS**

a. **Consider chair and vice chair positions for 2014.**

**MOTION** by John Bramall to nominate Chris Blake as the chairman.  
Seconded by Henry Maddux.  
Discussion: None.  
Vote was taken: All voted aye.  
Motion passed.

**MOTION** by Chris Hart to nominate John Bramall as the vice chairman.  
Seconded by Henry Maddux.  
Discussion: None.  
Vote was taken: All voted aye.  
Motion passed.

b. **Discussion and possible action on 4<sup>th</sup> Quarter and Annual Reports 2013.**

Henry Maddux stated that dogs off leash have been a continuous problem within the Reserve and asked if the situation is getting better. Bob Sandberg replied that law enforcement and volunteers watch for leashed dogs. There are increasingly more people using the Reserve now than in the past. Cameron Rognan added the trail stewards report that many users only leash their dogs when other people are present.

There is a provision in the HCP which gives an exception when people are in the act of hunting. Ann McLuckie added that if law enforcement could give warnings and citations to repeat offenders then the amount of unleashed dogs would go down. Chris Hart asked what kind of damage is done by allowing dogs to run through the Reserve unleashed. Ann answered that when dogs approach a female tortoise, she may void her bladder which could pose a problem if she's ready to lay eggs. Dogs can also chew on shells and damage habitat by crushing burrows and shelters.

There are county wide and individual city ordinances to leash dogs. The HCAC felt it would be good for law enforcement to place more emphasis on issuing warnings and citations for dogs off leash.

**MOTION** by John Bramall to accept the 4<sup>th</sup> quarter and annual reports for 2014.  
Seconded by Chris Hart.  
Discussion: None.  
Vote was taken: All voted aye.  
Motion passed.

**c. Consideration of fee waiver request for Sienna Hills Area 4 development**

Exhibit 5-c-1 is a map for a future development in Sienna Hills. As a discussion continuation from a previous HCAC meeting, the committee discussed whether or not impact fees should be paid on the open space. Bob Sandberg reminded the HCAC there was a question as to whether it was Washington City or State Institutional Trust Lands Administration (SITLA) that is requiring the open space. Bob contacted the city and found out the open space is due to topography and drainage.

Kyle Paisley with SITLA stated that the large area of open space will be left undisturbed. The property will be purchased by a developer and deeded over to an HOA. There's really nothing for the HOA to take care of since the land's condition will not change.

Vice chairman Blake explained that the HCP was written to provide for development and a decision was made during the creation of the HCP to collect impact fees through development. There is an impact fee issued every time a building permit is issued. In addition there is a \$250 per acre fee when land is platted. Platting a subdivision takes land out of habitat even if nothing is built for awhile. It is this \$250 fee that SITLA and the developer want waved since they won't be touching the habitat.

If open space is part of a city's requirement for a development then the fee needs to be paid. The HCAC discussed if the land is left open because of terrain, if there is any value to the tortoise there, how trash will be kept out so that it's not desecrated habitat in the future and if open space which was once contiguous with other tortoise habitat will become isolated and lost habitat to tortoises.

Kyle explained that the open space is a requirement of the city's master planning process due to the terrain's roughness, slope and other reasons. Kyle felt that the open space will remain as contiguous tortoise habitat due to culverts that are in place.

Vice chairman Blake reiterated the two impact fees. One by acre to develop the land and the other by building permit to develop a structure. The idea is that bulldozing land has one impact and putting people out there has another impact. Washington City didn't require the open space, the topography has dictated it. An argument could be made that since the land isn't being developed they wouldn't be subject to the impact fee. On the other hand, an impact fee would be needed since the open space will be transferred to an HOA and this could be construed as taking and using the land. This situation is not in the books and will take a judgment call.

Kyle stated there are a series of washes and culverts to keep the habitat contiguous to other open space. Bob stated this is not in a *take* area, however, tortoises are known to be there. Jodi Borgeson felt there may be some legal issues involved and suggested that the HCAC wait to make a judgment call until she can look it over.

**MOTION** by Henry Maddux to continue the discussion at a future HCAC meeting to allow time for the county's attorney to provide guidance to the committee.

Seconded by Chris Hart.

Discussion: None.

Vote was taken: All voted aye.

Motion passed.

**d. Update on land acquisition efforts**

Bob Sandberg reported there are and have been ongoing discussions and meetings with landowners, legal counsel, the BLM, the County and other entities in an effort to make progress. The County attorney's office and the BLM solicitor's office are in the process of determining if it's legal for the county to facilitate an exchange and at what level the county can participate. Some of the discussion has been in regards to the county's help paying for appraisals (which the HCAC approved). Some of the appraisal work has been done. Other things in discussion are the environmental, archeological and endangered species studies along with miscellaneous studies that need to be done. The BLM also needs to do their environmental analysis work.

Efforts are ongoing with a Section 6 grant the county was able to acquire in concert with the state and which the state is pushing forward. There are further efforts being made to apply for another grant which raises question from the USFWS of how much progress has been made on the existing grant.

The HCAC scheduled a work meeting for March 25<sup>th</sup> to discuss land acquisition, to better understand where we stand on a lot of the issues. Bob stated Commissioner Gardner is going to Washington D.C. with hopes to discuss these efforts. He may have information to share when he gets back. Henry felt it would be nice to have the BLM's realty staff attend or provide an update of where they are.

**e. Technical Committee Report (Ann McLuckie)**

Ann McLuckie reported that the TC chair for 2014 will be Nathan Brown and the vice chair will be Kristen Comella.

The TC had a fieldtrip then discussed the Green Springs trail reconfiguration proposal. Out of the three proposed trailheads, the TC recommends moving forwards with the third option which is on an old road bed and leads to the popular Ice House trail. The developer has agreed to place a gate for city maintenance vehicles to access the area and public parking stalls for approximately five vehicles. The TC would like Washington City to amend their master recreation plan which identifies trailhead one as the open trail. The TC feels the city would be agreeable to move the trailhead.

The TC discussed purchasing water rights for Confluence Park with other species funds. The TC requested the Virgin River Program (VRP) to review the water acquisition proposal and its benefit to other species. The TC received their

recommendation letter which says the benefit to other species is dependent on 1) the amount of water returned to the river and 2) creation of a wetland complex for the Southwest Willow Flycatcher (SWFL), which could include flood irrigation.

The TC assignment states that purchased water will be used to irrigate agricultural fields. TC members questioned how this would benefit other species, specifically the amount of water that would be diverted from the river to water fields, the amount of water that would return to the river, and the efforts to create a wetland complex for the SWFL. The benefit to other species needs to be clearly defined through a specific plan devised between the cooperating partners, Washington County, VRP, and UDNR. The plan would include 1) clarification on the amount of water available and allowed uses of the water under LaVerkin Irrigation Company rules, and 2) Specific objectives to benefit target conservation species (e.g., increase water flow in LaVerkin Creek or Virgin River for endangered and sensitive fish or create suitable habitat for SWFL). Using the water solely to create agricultural fields/crops is not a benefit to other species, as defined in the HCP and the majority of the TC felt it would be inappropriate to use this money simply to create agricultural fields.

The TC made a motion to not recommend the HCAC use Other Species money to buy water rights (shares) at this time; however, the TC recommends developing a plan with the cooperating partners (e.g., VRP, UDNR and HCP Washington County Administration) to demonstrate how that water can be used to maximize the benefit to other species including the native federally listed fish species, the SWFL, state sensitive species, game and other wildlife species in Confluence Park, which could include flood irrigation. Out of six TC members, four accepted the motion. There were two dissenting opinions; both felt that purchase of the water would benefit a variety of species.

The TC was concerned that if the water is purchased at this time, it would be used to create agriculture fields, but that doesn't benefit other species. To maximize the benefit to other species, the TC suggests having the partners meet to flush out different approaches to benefit those other species. The plan could be worked out in a couple of months. If the other species fund money is used it needs to be demonstrable.

**f. Consideration of proposal to use Other Species account funds to purchase water rights for Confluence Park**

Vice chairman Blake declared a conflict of interest due to his involvement with the Virgin River Land Preservation Association.

John Bramall has noticed the number of wildlife species that have increased on his farmland since he went from 20 acres to about 600 acres. John has been involved in a joint cooperative project on a ranch in Kane County. They cleared pinions and junipers, replanted grasses, forbs and shrubs, and created a guzzler to collect water. Last year the wildlife percentage was 200% greater than four years prior. There have also been fewer depredations as the animals haven't had to travel as far to their water. John

added that when Hurricane City put water on the golf course they attracted more wildlife. John spoke in favor of acquiring the water creating a plan for the best use of the water.

Chris Hart agreed and felt that if these funds are dedicated for a specific purpose then a realistic benefit needs to be demonstrated. It would be a shame to acquire the water and not be able to use it because of a city restriction. Ann pointed out that other species is defined in the HCP as other species of concern including federally listed species, candidate species, and state sensitive species. If the county has a high priority to grow crops then the county can purchase the water shares without using the HCP's Other Species money. Once the shares are purchased the water will be diverted out of the river and used for crops. In order to grow crops, the depressions in the fields would need to be filled in and the wildlife needs the depressions to create a wetland complex.

Bob stated the Confluence Park Board is comprised of representatives from Hurricane, LaVerkin, Toquerville, VRP, UDWR, and the County. Exhibit 5-f-1 includes excerpts from the park's master plan, put together by the board. The "conservation easements were placed on the property to protect the interest of donors and to ensure, for posterity, that the property is jointly managed as a public park and nature preserve... The team was charged with recommending resource protection objectives and methods... All recommendations are intended to be consistent with the recorded conservation easements that protect the conservation values on the property... Short term recommendations... top priorities for immediate funding include install(ing) an irrigation system and reseed LaVerkin Creek pastures to minimize erosion and to out-compete invasive weeds,... reduce fire hazards... and remov(ing) noxious weeds... This plan carefully considered the location of uses, access to use areas, and impacts to habitat and visitor experience... Long term recommendations include agricultural uses: lower field for grazing or for hay, corn, or other crops, (and) development of a native plant nursery, especially drought tolerant species." (Confluence Park Final Plan, p. 4-11).

Bob felt that the Confluence Park plan is an all encompassing plan. The TC assignment was written the way it was because one of the main purposes of the water is to put the agricultural fields back into agricultural use. The master plan would need to be modified if the committee decides to do something differently. Other species funding was used to help purchase the property as was Section 6 funds and funds from other sources. The conservation easement was also used to help purchase the property. At the time of purchase, the idea was that the water would be there and would be used as outlined in the master plan as it was deemed an appropriate use of other species money. The Virgin River Land Preservation Association had to come up with additional funding for the deal to go through. They decided to keep the water with full intention that it would come back to the property once they were reimbursed for their additional funding.

Henry Maddux added the master plan was developed assuming that the water was available. In the end this will come down to a cost share to acquire the water since

there's no way 100% of the water put on the fields will benefit other species. These funds come through the HCP guidelines which determine the benefit. It'll probably come down to a percentage of benefit that other species receive.

Bob stated he has been looking for other ways to purchase water but he hasn't found any other way yet. One possibility is the LeRay McAllister Fund which would require a match. Usually this fund allows the match to be in-kind but for this purpose the match would need to be with money.

The HCAC discussed how it would be good to follow the TC's recommendation, to come up with a plan to show how other species are benefited and at what percentage they are benefited. The HCAC's responsibility is to show a justification for the way other species money is spent. If there's an opportunity to make a wetland complex then the benefit will go up but if a sprinkler system is used and not much water leaves the field then the benefit would be a lot lower. If the depressions were to remain in the field and become wetland then the water's whole intent wouldn't be only to grow crops. If the crops could be used as feed for wildlife then that could also be a benefit.

The committee talked about the different crops that could be grown and how it could become habitat and feed for wildlife. The HCAC felt willing to allow the park committee and others time to work on a plan for the use of water.

**MOTION** by Henry Maddux to request that Bob and the TC convene with other appropriate members to put together a plan of how the water would be applied in Confluence Park, demonstrating its beneficial uses for other species per the HCP and report back to the HCAC. Also, to work up a guesstimate on percentages of participation.

Seconded by John Bramall.

Discussion: None.

Vote was taken: All voted aye.

**g. HCP Administrator's report (Bob Sandberg)**

**1. HCP revenues and expenditures report review**

The revenues have exceeded the expenditures which is not something we've seen this early for a few years. The HCAC felt that Bob could bring this report next month and then once a quarter since the changes are not dramatic from month to month.

Henry asked about a line item for Confluence Park Restoration. Bob explained that we have been acquiring grants for restoration work since the only allocated funding is for interim management. The county has funded the grants up front and then is reimbursed once the grant is complete.

**2. Desert Tortoise Council meetings**



The Desert Tortoise Council (DTC) held symposium in California. Ann McLuckie presented on the DWR's efforts. The DWR and the HCP office alternate presenting every other year. Those who attend these symposiums include: members of the DTC, agency representatives, Quad State, and the public. This last symposium had about 260 registrants along with consultants.

Henry feels it is a good use of funds to send members of the HCAC to the DTC. Chris Blake asked Bob to let them know when the DTC is next year. Quad State submits very detailed minutes of all the proceedings at the symposium. Reading those minutes is another way the HCAC can stay informed.

Henry asked how tortoises are doing range wide. Ann McLuckie replied that in all recovery units tortoises are declining except in the north east Mojave. On some of the recovery units the decline is not significant. In the Upper Virgin River Recovery Unit there is a biologically significant decline which she will present data on in April. The biggest source of decline was from an extreme drought in 2002 and wildfires in 2005. In answer to a question, Ann responded that translocation has been successful in Zone 4 and for areas that are cleared next to the Reserve the negative tested tortoises are put in the Reserve.

### **3. Increase of clearance requests**

There has been more housing and construction activity. A lot of areas that were idle during the recession are now requesting clearances. The DWR has a MOU that allows them to help with clearances, if needed.

### **4. DWR Monitoring MOU signed**

The HCAC and the county have approved the MOU along with the individual scopes of work. The county has signed the MOU.

On a side note, Bob reported that the Bluff Street interchange/overpass project at Red Hills Parkway, Snow Canyon Parkway and SR-18 is scheduled to start in March.

### **6. PUBLIC COMMENT**

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).

Lisa Rutherford questioned why there have been no agenda discussions regarding fire prevention, given our drought conditions and history. She asked for update on a future agenda for the northern corridor. The Transportation Expo showed the corridor going through the Reserve. Lastly, Lisa commented that although dogs are allowed in the Reserve while on leash, the Reserve is not a reserve for dogs and would like to see more work done to get that under better control to preserve what is supposed to be preserved. Vice Chair Blake told Lisa the HCAC will do their homework before placing these items on the agenda.

**7. MEMBER REPORTS & REQUEST FOR FUTURE AGENDA ITEMS**

Chris Hart asked if fencing near Tuacahn is completed. It was answered that fencing is completed and the fence perpendicular to the highway has not been taken down yet.

The committee talked about continued fence vandalism along the Tuacahn Wash. Cameron Rognan stated he was there a month ago and the fence was still intact. The fence has been cut about four times. Bob added that typically it is cut in an area of the wash so that equestrians can gain further access into the Reserve. John Bramall suggested placing a camera to catch whoever is cutting the fence. Cameron stated there is a stepover for hikers which is closed seasonally by SCSP.

**8. ADJOURN**

**MOTION** by Chris Hart to adjourn the meeting.

Seconded by John Bramall.

Discussion: None.

Vote was taken: All voted aye.

Motion passed.

The meeting was adjourned at 2:30 p.m.  
Minutes prepared by Amber Stocks.