

SOLANO COUNTY WATER AGENCY



AGENDA HCP STEERING COMMITTEE

DATE: Thursday, October 15, 2009

TIME: 6:30 pm to 9:00 pm

PLACE: Solano Irrigation District
508 Elmira Road
Vacaville, CA 95687

MEETING CANCELLED

Recommendation: Next meeting: *November 19, 2009*

If you have any questions please contact Chris Lee at (707-455-1105) or email at clee@scwa2.com.

Note: HCP text, Steering Committee Agenda materials and Meeting Notes can be found on the Agency's Website at www.scwa2.com.

H12.HCP-Steering.Com-October.2009.agd

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**SOLANO HCP STEERING COMMITTEE
MEETING NOTES**

MEETING DATE: September 17, 2009

Steering Committee members attending: Erin Beavers, Bruce Brazelton, Jim Coniglio, Tad Tobitt, and Whit Whitman.

1. Introductions

Introductions were made and the meeting started.

2. Where we are in the Process

SCWA released version 2.2 of the HCP in February 2007, new staff agency came on. It took a long time to get them up to speed and they also had their own ideas as to how the HCP should look. We had many meetings over the last year working closely with the wildlife agencies on the text of the HCP.

SCWA released the Final Admin Draft this June. We have had several meetings with our Plan Participants to let them know about the changes. We have had no real comments on the text to date other than those submitted by a few Steering Committee members. SCWA is having separate meetings to go over the O&M manual, which needs some fine tuning and updating from our Plan Participants.

SCWA has not had any real commitments from the wildlife agencies on when they would get back to us with comments. USFWS has said they are almost through the whole draft. Again, staffing issues, as well as state mandated furloughs have not helped our cause. The Bay Delta Conservation Plan has also been pulling staff time away from the HCP. SCWA has been attending meetings on several fronts for the BDCP, from the State Water Contractor perspective, from the Solano County perspective, and from the Solano HCP perspective.

There has been an absence of Steering Committee meetings as SCWA wanted to give you time to review the latest Draft HCP.

Once we have heard any comments/concerns from the wildlife agencies we want to reach out to the farm and agricultural community as well as the development community again to let them know where we are and talk about any concerns they may have.

SCWA is hoping we will receive comments from the Steering Committee tonight or shortly after. There are no deadlines for comments at this point, but the sooner you can get something to us, the better. You will still have the opportunity at the Public Draft stage, but we would

prefer to address your concerns now and see them incorporated into the Public Draft.

We will probably not have another Steering Committee meeting until we get substantive comments from the committee or the wildlife agencies.

2. Re-cap of Major Changes in the Latest Draft of the HCP

The June 2009 Administrative Draft HCP represents the results of the negotiations and discussions with the Regulatory Agencies and review of the public comments on Working Draft Version 2.2. While many of the conservation measures and other sections have been revised to reflect comments and to provide additional clarity, the overall conservation has not changed substantially, except in a few instances. Major changes include:

- The Covered Species list was reduced from 71 to 37 species based on the US Fish and Wildlife Services' (USFWS) concerns for extending No Surprises assurances to species whose population status and conservation requirements may not be fully known.
- One species, the long fin smelt, proposed for state and federal listing since the publication of Working Draft 2.2 and that was not previously included in the HCP was added to the Covered Species.
- There are 34 Special Management Species (19 plants and 15 animals) and one rare Natural Community (Native Grassland). These Special Management Species include species that are typically considered under CEQA Criteria 15380 to be threatened or endangered. However, the life history and/or habitat associations for such species may not be fully known. The intent of addressing these species and one natural community in the HCP is to avoid creating a two-tiered system where future CEQA documents would need to do greater study and analysis for these non-listed species than would be necessary for the listed, Covered Species. Addressing these species in the HCP allows future CEQA documents to tier off the findings of the Solano HCP EIR/EIS.
- Sharp-shinned Hawk and Cooper's hawk were dropped from both the Covered Species list and Special Management Species list because they were dropped from the State Species of Special Concern list for birds.
- The permit duration changed from 50 to 30 years.
- The most significant changes to the conservation program approach involve Swainson's hawk and burrowing owl conservation strategy. The basic mitigation 1:1 mitigation to impact ratio remains unchanged; however, the current draft requires more direct management for Swainson's hawks and burrowing owl. The traditional approach for Swainson's hawk foraging habitat mitigation relied on establishing conservation easements to preserve agricultural lands. The primary management for the hawks was fairly passive and involved restrictions that precludes crops such as orchards, vineyard, rice, and cotton which do not provide good foraging habitat. California Department of Fish and Game (CDGF) and USFWS are requesting more directed management, such that 50 percent of the reserves must be planted in alfalfa or other irrigated hay crops with similar management

requirements and that lands be set aside for providing future nesting habitat. Other changes in the conservation strategy include:

- Five percent of the reserve system shall be set aside and established in permanent, naturalized herbaceous and woody/shrub cover. These areas may be used for preserving/planting nest trees (Conservation Measure SH 6, new); establishing burrowing owl artificial nest burrows (Conservation Measure BO 3), tricolored blackbird nesting habitat (Conservation Measure RSM 14), nesting habitat for other Special Management Species (Section 6.11); and providing vegetated filter strips for water quality enhancement.

Question: Would permanent pasture meet those criteria?

No, probably not.

Statement: This will probably be an issue with the County; they are concerned with loss of agricultural productivity. The reverse argument is that it is pretty limited throughout the County and only deals with a few crop types.

This probably will start pushing us in the direction of mitigation banks for Swainson's hawks. It is very unlikely that the average farmer would live with these types of crop restrictions.

- Conservation Measure SH 7 was added to require preservation of known nest trees as mitigation for removal of known trees. Under this measure, the removal of a known nest trees shall be mitigated through protection/preservation of other known nest sites at a 1:1 ratio. Protection shall be provided through a defined term easement program (generally 5 to 10 years) or future nest tree planting program to be implemented by SCWA.

Changes to June 2009 Administrative Draft

- Swainson's Hawk Measure SH2: Irrigation District Annexations is proposed to be deleted. This measure was originally added to address concerns that irrigation district annexations were a step to acquiring water that could be used for development of the land or exported for other uses. Apparently, this concern is unwarranted as the water for any annexation is owned by the irrigation district and not the served landowner. SCWA and other applicants are working with FWS and CDFG to address this issue and provide appropriate assurances.
- Added information in Section 10 to address County concerns about potential loss of property tax, sales tax, and special assessment revenues if lands are converted from agricultural uses and/or taken over by government agencies or non-profit organizations. Several applicants are also concerned that large scale habitat conversions could also increase their O&M costs and those costs also need to be covered. Section 10.5.1.1 has

been revised to include measures that require that potential effects be analyzed and such payments to be included in required endowment calculations.

These last two items are not in the current draft, they will be incorporated into the Public Draft. We will be working with the wildlife agencies to craft language that is feasible for the HCP.

Updates on Other Related HCP Activities

- Draft of the Contra Costa goldfields genetic report has been completed. Major findings include:
 - The various “populations” in Solano County are **not** genetically different as earlier work suggested.
 - All the populations show a high degree of genetic diversity.
 - Identification of “in-breeding” in one of the populations.
- Completed the third year of Contra Costa goldfields population study.
- Two of the larger “at risk” core Contra Costa goldfield populations within the City of Fairfield urban growth area have been protected through establishment of two Mitigation Banks.
 - Noonan Bank – 200 acres, also currently working with an adjoining land owner to expand into 80 acres. Also ties into proposed mitigation reserve for an individual project north of Vanden High School that will provide a total 300 acre plus reserve.
 - Goldfields Bank – 165 acres on the old Parker Ranch/directors Guild properties on Walters Road and Air Base Parkway. This key property ties into the Travis AFB/Aero Club population, the Jehovah’s Witness population, and the open space/mitigation land on the eastern edge of the Peterson Ranch subdivision.
- A third key population south of HWY 12 is also in process for approval as a reserve as part of the Potrero Hills Landfill expansion mitigation.

Question: How large of a preserve would this create?

All three combined would be about 300 contiguous acres.

3. Steering Committee Comments on Final Solano HCP Final Admin Draft

One of the comments we have received so far is that from the development standpoint, how do we know what is going to happen once the HCP is adopted. We have put together a handbook for Fairfield, which explains all of the requirements for pre-construction surveys, avoidance and minimization, and mitigation for projects within Fairfield.

There will also be a GIS component that will allow you to click on a parcel and it will call up all of the relevant conservation information required for any projects. This will hopefully address a lot of the concerns with new projects, complexity of the HCP, and long-term implementation.

SCWA is currently revising the Implementing Agreement, which lays out the governance of the HCP.

Question: How does the executive summary differ from the Fairfield Handbook?

The executive summary gives you an overall sense of the HCP; it doesn't go into a lot of detail, but gives you information from each Section of the HCP and lets you know where to go to get more detail.

The Fairfield Handbook gives you the very basics on what will be required for new projects, how development would proceed under the HCP: surveys, avoidance and minimization, and mitigation requirements without going into the detail of how we arrived at those conservation targets.

Question: One of the questions for Implementation, that has come up over and over again, for the ACOE and the Regional Water Boards, are they involved in the review of the HCP and are they providing comments? One of the reasons this is an issue is that the Regional Board is now objecting to using some mitigation banks because they are outside the watershed of where the impacts are occurring. How can we deal with something like that?

We have continued to try and involve the ACOE with the HCP, as of late we have run into some pretty resistant walls. All along we have thought that getting a Letter of Permission from the ACOE, which would basically say that they are using the conservation measures in the HCP for their Section 7 Consultation with USFWS, would bring us a long way in streamlining wetland permitting for new projects. We have not had any substantive dialogue with the Regional Water Boards; we wanted to shore up our discussion on the federal side first. We have also tried to up the ante a bit by pursuing a Regional General Permit, something which would raise the threshold a bit as compared to the current Nationwide Permit Program. We have not been very successful in that endeavor.

We are also at somewhat of a disadvantage in that we have to deal with two regions of the ACOE and two Regional Water Boards.

Recently, the ACOE has stated that they are doing something very similar to this with the South Sacramento HCP. The ACOE has said that they are doing this with them because Sacramento's resources are more defined/in peril, but the truth is probably that the Sacramento Development lobby has pushed very hard for such a program. If we are to be more successful at developing a RPG for Solano, we need help from the Development Community, the ACOE needs to hear that this is a common goal in Solano County.

Statement: I don't know a whole lot about the permitting process with the ACOE, but I am wondering if the holdup on a lot of these permits is from the ACOE side and their staffing issues. What I can tell you is that this year we have had three projects come in from East Contra Costa HCP/NCCP and the ACOE received a letter from USFWS within a week or two once the projects came in. With an HCP in place, it certainly streamlines the Section 7 consultation.

Statement: Things are moving ahead in coordination with the conservation plans in South Sacramento, East Contra Costa, and Placer Counties. It is very important that both the development community and the environmental community want to get away from the postage stamp preserves, to a system of larger preserves and less avoidance in some instances. In fact some areas should have no avoidance. In South Sacramento, they talk about having a programmatic general permit, which would only affect projects with minimal or no significant impacts. A Letter of Permission would cover a somewhat larger amount of fill, but only a few acres at most. The idea has been to change the scale, instead of looking at the project level scale, looking towards the whole planning area scale and developing a Regional LEDPA (Least Environmentally Damaging Alternative). For South Sacramento, this will be part of their EIR/EIS. In both South Sacramento and Placer, there will be an ordinance adopted that will spell out the rules for these permitting programs. This could also be done here after the HCP is done.

Statement: The reason the ACOE can do a programmatic permit is because of the ordinance.

Statement: The only reasonable approach over time is to have a regional approach by landscape, not watershed.

We are going to continue to strive towards this for the Solano HCP. If we can garner champions from the environmental and development communities, it will make our arguments much stronger.

Question: It seems that you have set the HCP up with an implementing entity that doesn't do a whole lot. The HCP is relying on banks to manage the lands for a large part, but what I couldn't figure out is who is going to manage the preserves that are within the Cities and riparian areas?

Section 10 clearly states that SCWA is the lead agency and is wholly responsible for managing the preserve lands in perpetuity. There will be robust management plans and endowments for each preserve that SCWA will approve, which will account for the monitoring and management in perpetuity for these lands. There will be feedback from various committees, such as this one, on adaptive management and directed studies to fill in data gaps on the entire preserve system.

Question: For lands that are set aside as preserves, SCWA will be in charge?

Yes. SCWA will either own the land in fee title or hold the conservation easements.

Question: I was a little confused at where the landowner's responsibility ended and where SCWA's responsibility took over. Will every little bit of avoidance or mitigation areas become reserve lands?

Yes. If it is a mitigation area, it will be in the reserve system.

Question: If you are building or preserving a vernal pool, there would be a short-term monitoring requirement from the landowner's side?

Yes, that is correct. Long-term management will be done by SCWA, funded from the endowment for that land.

Question: Who would hold the title on the property?

It would depend. In most cases SCWA would hold the deed and a third-party such as Fish and Game would hold the conservation easement. We are still in discussion with DFG on that.

Question: The maps that show preserves, have we decided whether or not that means public access?

We need to clearly define the differences between open spaces that have public access on them and potential preserves which in almost all cases would have no public access.

Question: How do you keep the public out of those areas?

Depending on the preserve and the location, it will mostly be by fencing. For many of the preserves, grazing will play an important part of the management.

Statement: You also need to have a public education program so people can understand the importance of these preserves.

Statement: Grazing is an important part of preserve management. Most preserves that have cattle have exclusionary fencing, which is pretty robust. Public involvement is also very important. Having single sided streets that face a preserve give the homeowners a sense of ownership of those preserves. They care if someone is trashing the place, they don't want their home value going down.

Question: When you are talking about watersheds, it seems that you are talking about a fairly fine scale, is that true?

Yes, the ACOE's new mitigation rules, which came out about a year and a half ago, use hydrologic unit codes, which can get down to some pretty small areas, which, honestly, don't make a whole lot of biological sense out here. Our environmental communities, at least in the

Central Valley, go north-south; our watersheds go east-west. There have been some real interesting conversations with the ACOE and EPA over these issues.

Statement: The only system that will work in the South Sacramento HCP is for a lot of development in watersheds with streams flowing to the south to the Sacramento River. Most of the conservation and restoration will be in an area where streams flow into the Mokelumne River, a completely different river basin. This is the only way it will work for the ACOE and a programmatic permit.

It is completely different in Solano County. You may only have 25 feet that separate streams that flow to San Francisco or those that flow to the Delta. It splits properties, the same vernal pool communities; these are some of the things you get when you split these watersheds out. Streams that drain to the Delta would technically be in some of the same watersheds as Placer County.

Question: What about our policy of staying within our boundaries?

This is not something we would do in the HCP; it is what the agencies governing wetland permits may tell others outside of the HCP. They may tell them it is ok to mitigate in Solano County for their impacts in Placer County. Most areas don't have HCPs in place.

When commercial mitigation banks are certified, they are given service areas where they can sell their credits. Quite often they go beyond county boundaries.

Statement: We need to make sure that there is more involvement with other groups out there to let them know about the HCP.

We have been waiting to have a more complete picture of what the HCP is going to look like before we started meeting with other groups in the county to let them know about the HCP. It is definitely on our radar.

We are looking to this group to comment on the latest version of the HCP, we want to have a well thought plan for the Public Draft HCP. As pointed out earlier, we don't want someone coming in at the 11th hour and having serious concerns about issues we have already addressed.

Question: Have you received any feedback at all from the Home Builders Association of Northern California Building?

No, given the downturn in the building industry, their staffing has been cut fairly deep as well. They have been given a copy of the HCP and they have provided comments on past drafts. The two groups that we are going to be spending a lot of time with in the near future with regards to outreach are the building industry and the agricultural community.

Question: Do we have an overall time frame? The 30 year time period, is that the time from when it is adopted?

Yes, the clock would start ticking once the HCP is adopted. Unfortunately, we do not have a well defined schedule. We really have to wait for comments from all of the groups, especially the wildlife agencies, to push forward with a well thought out Public Draft HCP.

Statement: It would be helpful to have all of the comments from the Steering Committee in as soon as possible; USFWS would like to look at them to see what they agree or don't agree with. The more eyes looking at this the more likely we don't miss any huge mistakes.

While we appreciate all the hard work involved in the review of the Draft HCP, not every comment will be incorporated. There will be times when suggestions just will not work for the Plan Participants.

Statement: There may be the need for some hard line preserves in the more sensitive areas, particularly for Contra Costa goldfields.

It is almost to the point now where Fairfield will have approved all of the proposed projects in the Contra Costa goldfields areas before the HCP will be adopted. Fairfield is using the HCP as the model for the conservation and mitigation for these projects.

Statement: The last big area that Fairfield is dealing with is the Train Station Specific Plan. It runs from the Lewis Project near McCoy Basin to the eastern boundary of the City which is Northgate Road. There is almost 3,000 acres of land, one-third will be developed and two-thirds will be preserved. It will also call for the changing of the green-belt between Fairfield and Vacaville, which may raise some red flags, but that was established without any biological considerations. There are real benefits to push into that green-belt with development and preserve the more valuable areas nearby. This would basically preserve from Peabody Road all the way past Travis AFB.

Question: Could the Steering Committee have a presentation on what Fairfield is planning for development in the future?

Statement: Yes, we could put together a presentation.

Statement: I was at a meeting with some of the County Supervisors earlier today and they mentioned that the HCP should have some type of clustered mitigation in-line with the County General Plan.

The HCP corresponds well to the General Plan. The General Plan basically took the GIS layers for the HCP Conservation Areas and reproduced them into the General Plan as their Open Space areas. It is almost exactly the same.

Question: A while back when we were talking about SWHA mitigation, we were talking about the known nest sites. There is a high density of nest trees near I-80. We had talked about splitting the agricultural conservation into two sections, but that line is gone now. This could result in a development in Vacaville for example that is in the high density nest zone that would mitigate its impacts in the lower density nest zone where land is cheaper.

On Figure 4-22, lands below certain elevations will be excluded as suitable for mitigation. If you have impacts in irrigated agricultural lands you have to mitigate in irrigated agricultural lands. Part of the conservation strategy for this species is to preserve known nest trees as well.

We may or may not meet next month (October 15th), it all depends on the amount of comments that trickle in. If we receive comments from the wildlife agencies, we will meet to discuss those comments.

On November 8th, the Northern California Conservation Planning Partners will be putting on the 8th Annual HCP Workshop at the Community Center in Vacaville. There will be a section on Climate Change, a section on Farmland Interactions, as well as a section on interactions with the Bay Delta Conservation Plan. Steering Committee Members fees will be paid by SCWA should they wish to attend. Information is available at: <http://www.conservationplanning.info>

HCP STEERING COMMITTEE MEETING ATTENDEES

Name

Representing

Whit Whitman	Orderly Growth
John Hopkins	Institute of Ecological Health
Sheila Larsen	USFWS
Bruce Brazelton	Farm Bureau
David Okita	Solano County Water Agency
Erin Beavers	City of Fairfield
Steve Foreman	LSA, Inc.
Chris Lee	Solano County Water Agency
John Currey	Dixon RCD
Roberto Valdez	Friends of Lagoon Valley
Jim Immer	Lewis, P.C.D
Jim Coniglio	Discovery Builders
Karen Shaffer	Gibson & Skordall LLC
Marcus Johnson	Union Creek Holdings, LLC
Chris Stump	B&L Properties II
Robert Macaulay	Solano Transportation Authority
Bill Davis	WRD Collaborative
Tad Tobitt	Professional Engineer
Rebecca Doubledee	LSA, Inc.
Matt Frank	CH2MHILL