

SANTA CLARA VALLEY
HABITAT CONSERVATION PLAN/NATURAL COMMUNITY CONSERVATION PLAN
Stakeholder Group Meeting | March 28, 2006 | Morgan Hill Community Center

IN ATTENDANCE:

Stakeholder Group Members:

Jack Bohan (Representative of general public)
Kevin Bryant (California Native Plant Society)
Craig Edgerton (Santa Clara County Open Space Authority)
Justin Fields (Santa Clara County Cattlemen's Association)
Jan Hintermeister (Santa Clara County Parks and Recreation Commission)
Virginia Holtz (League of Women Voters)
Lawrence Johmann (Guadalupe-Coyote Resource Conservation District)
Bob Loveland (Representative of general public)
Kenn Reiller (Pajaro River Watershed Council)
Bob Rohde (Natural Resources Conservation Service, San Benito and Santa Clara Counties)
Tim Steele (Sobrato Development Company)
Jack Sutcliffe (Santa Clara County Farm Bureau)
Carolyn Tognetti (Save Open Space Gilroy)
Lloyd Wagstaff (The Nature Conservancy)

I. WELCOME AND UPDATES

Joan Chaplick (MIG) opened the meeting by providing an update on the status of several members. Two members called to report they would not be in attendance. Keith Anderson was ill and Kerry Williams had a schedule conflict.

Joan has heard back from David Wei, who is going through career change and will be unable to participate in the Stakeholder Group. The Management Team will review new appointments to be sure that there is a balance. Dolores Herrera did not respond to the letter inquiring about her continued participation in the group, so she will also no longer be part of the Stakeholder Group.

In response to her limited ability to participate, Jenny Derry has secured a commitment from Jack Sutcliffe to represent the Farm Bureau on the Stakeholder Group.

Brenda Torres is leaving the Bay Area and moving to New York City—when her position as executive director of the regional Audubon chapter is filled, that person will become an active participant. There may or may not be an interim person participating on behalf of Audubon, although Brenda plans to attend meetings until her departure in June.

Craig Edgerton announced that the San Jose Silicon Valley Land Conservancy will be sponsoring hikes and tours to Coyote Ridge—he has brochures. These are not open to the public, but people can make reservations to participate.

Virginia Holtz clarified the source of the agricultural data she provided at the February meeting; it came from the Santa Clara County Ag Commissioners' data.

David Zippin noted that he is producing an extensive map of land cover and has just finished the first phase. Jones and Stokes is now doing air accuracy testing, which requires access to remote areas of county. They need help getting access to a few areas that have been difficult, especially the southeastern part of the county. Group members should let David know if they have contacts in or knowledge of these areas.

II. HCP/NCCP BENEFITS AND CONTEXT FOR GOALS

David provided a table of general benefits and concerns of interest groups. What do groups typically have concerns about, and what do they usually view as benefits? The handouts address what the endangered species permitting process involves now and what the HCP will do to change the process in the future. Virginia added that it would be helpful to date versions of handouts distributed. David noted he will do this in the future.

David noted that there were broad goals and biological goals for the plan. Broad goals are general, qualitative statements about the plan. They cover a wide range of topics (e.g., watershed preservation, economic development, etc.) and are optional—there is no requirement to discuss these in the plan

Biological goals, in contrast, are required by the USFWS Five-Point policy. These are the heart of the plan—the conservation strategies. They are developed for each natural community or for covered species (e.g., oak woodland, etc.).

The plan's objectives should be measurable and quantitative when possible. It is difficult to tackle this on a species-by-species basis, so the idea is to tackle this on a habitat level. The objectives provide clear guidance, while goals are broad and general. Both will be developed in a very iterative process, and will change as the process moves forward.

Case studies

- East Contra Costa County HCP: 33 biological goals and 91 biological objectives.
- Plum Creek Timber Company: covered mostly fish, but also spotted owl and other birds. Four C's: creating cold, clean, connected, and complex streams

Schedule

June 2006: Develop structure for biological goals and objectives
August 2006: Preliminary biological goals and objectives
November 2006: Draft bio goals and objectives
April 2007: Preliminary conservation strategies and alternatives

Q: When will the science advisory board start participating?

A: Probably early July—this is still being determined.

Q: With respect to mapping, Phase I is complete—how many phases are there?

A: Probably three. Phase II will check and ensure that mapping is accurate and then involve a formal air check that will select samples and check them to estimate error. Phase III will begin after the science advisory committee meets, and will involve further tweaking.

Q: Who determines members of science advisory committee?

A: The committee should be an independent group—the county has hired Kleinschmidt Associates to manage this process. Kleinschmidt staff came up with eight areas of expertise to include after discussions with biologists including from Fish and Game. The consultant is responsible for ultimately hiring people; local groups aren't involved. The Stakeholder Group and the county don't have any input on this. A workshop will probably be held in July, and scientists will prepare a report—probably available in September. This group will receive the report.

III. GOALS DISCUSSION

Ann Draper led a continuation of the goals discussion from the February meeting. She reminded the group that these are the broad goals that the Management Team has developed—they are looking for comments on the preliminary draft. This should be an open discussion—we do not have to reach agreement today.

The group continued reviewing the original version to ensure consistency before editing begins. The Liaison Group also reviewed these, but didn't have too many comments. Joan noted that the group would discuss next steps at the end of the conversation.

Multi-Purpose and Benefit Plan

The goals around public access are intended to increase opportunities to include wildlife on public lands, and to increase access by coordinating with county plans.

Bev noted that the last two are great goals, but wondered how much it was going to cost, and who would pay for those kinds of activities to happen.

Jan added that the middle two are both good goals, but asked what it meant when something became a goal. As part of the development of the plan, will real people spending real money be evaluating areas on the basis of their suitability for recreation? The more constraints you add, the more complicated it gets.

Joan noted that some of these may be labeled as guiding principles or strategies. Ann added that some recreation may mean guided tours, etc.—the notion of picking up other benefits in addition to the ecological/biological benefits.

Larry asked where stream channel function might be addressed, if you want to preserve the proper operation of a waterway, which is not really a watershed. This is particular to stream channels—not just land surrounding stream channels (or watersheds). Possibly this entails providing enough flows to make the channel function properly, and protecting the aquatic habitat and everything that goes with that.

Brenda asked if he was referring to riparian corridors. Larry said yes, but specifically the waterway itself.

Kevin suggested adding “and riparian corridors and stream channels” to #1.

Leveraging Public Assets

We need to leverage these existing assets. Some, if not all, of the partners have habitat assets (e.g., the water district already has mitigation policies, etc.) The county owns parks property, has a strategic plan and is developing plans for specific parks. For example, the Coyote Creek Park Master Plan in preparation. State and federal partners also have strategies, and the HCP should be mindful of these, as well.

There is a concern that there be no “double-dipping,” or layering mitigation on existing protected land—but we should be mindful of adding on to what we already have.

David noted that habitat assets could be key elements of the conservation strategies, rather than mitigation strategies.

Kenn observed that there was a lot of room for confusion with terms used across each goal; the group needs to be more attuned to consistency in use of terms.

Group members noted that the plan needs to have a blended approach to address where funding comes from.

Tim suggested establishing priorities around how funds are applied if a project gets federal money. Are you applying this money to the next project, to the public good as a whole, etc.? He stressed that it should be a collective effort—otherwise the impact is essentially one party getting a break by finding alternate money, while others bear the full burden of mitigation and other HCP requirements.

Jack noted that “seek” implies that finding additional funding is voluntary.

Ann reminded the group that there will be an economic consultant coming into the process. (The RFP is on the street right now, so this should be determined by the end of May.) The consultant will help determine how the HCP will be financed. Kenn also observed that this goal could easily be tied to the next bullet.

Tim again underscored that it was important for these funds to be applied across both public and private sectors. Ann pointed out the last bullet, which referred to equitable allocation of the cost of implementation based on relative benefit. The group agreed that both benefit and cost need to be allocated equitably

Q: There seems to be a pot of money and a set of lands to be purchased. Is there a priority set up in terms of lands to be purchased?

A: Yes. This depends on what kind of a reserve system needs to be created. There is a need to be flexible (e.g., what if owner won't sell?).

Kenn observed that he was working on the water bond for the levies, and pointed out that it's important to remember that opportunities will come and go—we're embarking on a long process, so we should be cautious about making sure that the goals we set are going to be usable at the end of the game.

Lloyd added that the goal of the HCP is really to make sure that good development can move forward quickly. Everyone should be paying a reasonable equitable share, since this is good for both the county and developers.

Jack asked if it was incorrect to say “equitable allocation is between the partners.”

Ann replied that this was the original intent, but the point of including the private development community is an important one. This goal still needs some work.

On the last bullet, “integrate” isn't necessarily the right word—it implies a higher level of coordination. The plan also shouldn't name a particular HCP—it should just refer to cooperating with other HCP efforts outside the county. In addition, some of the covered species are mobile and don't stay within county limits.

Jan suggested “cooperate and coordinate,” noting that using one without the other isn't enough.

“Conservation efforts” is also broad term; it may not always be an HCP/NCCP. The plan should be mindful of any work that's already been done.

Ken suggested that maybe the goal be broad, and the strategy would be to coordinate with specific HCPs.

Q: What about all of the other HCPs—are there lessons learned there?

A: Each is unique; we're borrowing where it's appropriate, but sometimes you do need to start from scratch.

Public Participation

Jack observed that “open public process” can mean a lot of things. Maybe the phrase could be more specific.

Ann noted that there are specific strategies—listserv, community workshops (probably twice a year), stakeholder group, etc.

Q: What about individuals living adjacent to lands to be protected?

A: Well, this is something to think about when we get to that stage.

Bev asked if there was any way to make the HCP more evident on the county website? It takes forever right now when you Google it.

David replied that the ease of access and use will increase as the public outreach consultant becomes involved. Karen Molinari presented the plan to the Liaison Group last month; hopefully over the next one to two months, there will be a new website that will be much easier to access.

Craige asked if the group would break goals and objectives down to development and implementation of the plan. Ann replied that they would, but mostly for development. Implementation is included primarily since it will go on for a long time.

Virginia added that it seems like the group is trying to do an outreach program—maybe this should be included explicitly here.

Kenn produce a table of Pajaro Watershed projects for each of the partners in relation to the timeline for the HCP. He noted that there are many opportunities to leverage outreach for these various projects. Can there be a table or schedule of what's happening that affects the plan?

Economic Growth and Development

Tim observed that to respect hierarchy, “allow” is probably wrong word to use—maybe “assist”?

Jack added that there are two key elements—public assets and private assets. Which is it? These should not be key elements of the conservation strategies.

These notes are in to avoid having a uni-dimensional strategy. The group should not ignore its regulatory abilities in crafting strategies. Plans need to mesh and integrate well. Pat noted that one example is the idea of protecting oak woodlands. There is no county heritage tree ordinance. But maybe the land use agencies could pass this and it would help preserve oaks.

The group agreed that this section needs to be tweaked to avoid overemphasizing controversial points.

Eminent domain, in particular, is a very controversial issue: some plans have explicitly stated they won't use eminent domain. Others do not want a policy on this issue.

Tim asked that he be on record as not wanting to be associated with any effort that will encourage local agencies to use eminent domain to achieve its goals.

Kenn suggested phrasing this as “local controls” rather than powers.

Ken noted that in working through implementation strategies, it will be possible to decide whether to use existing agency or a new agency to manage plan. Is there a sense that this should be a willing buyer willing seller process? If this is important, it should be noted.

Tim replied that it was important to just establish the benefit of land being in someone else’s hand—not to empower an agency or individual to take land as a result of the HCP.

Bev added that it is very possible to have an HCP without eminent domain.

Craige agreed that the plan should emphasize willing sellers—but shouldn’t remove the right of partner agencies to use eminent domain.

Tim agreed, provided the plan doesn’t give any regulatory agency an additional right to take.

Q: What happens if we put this all into place, and there are no willing sellers?

A: Sometimes fees are set too low and no one’s willing to sell, but if there’s enough funding, there will be willing sellers. The plan simply creates another option for owners.

Ken observed that it was hard to see which heads are nodding at which times. To what extent does group feel that having a willing buyer and willing seller is important?

Results: Yes: 5 No: 0 Need more information: 9

We will come back to this.

Jack said that eminent domain needs a separate bullet. Joan asked the group what information would be helpful to clarify these issues. Bob noted that we’re talking about species that don’t relate to human boundaries.

Jan added that there was no history in these issues, so it would be good to understand the scenarios that might come up, what’s happened in the past, etc.:

- What has been used in the past in HCPs?
- What agencies would have the authority to use eminent domain, and what authority does the HCP have to regulate this? There are partners in the plan, and most have eminent domain to fulfill their missions. By being a partner in an HCP, does that expand your ability to use eminent domain?

A group member noted that the goal statements are too weak in this section. This should be thought out and given more weight (e.g., “allow” statement, which doesn’t convey the goals that have been discussed)

The group wants to be sure that the HCP doesn’t negatively impact adjacent landowners.

Lloyd asked whether the plan will simply ensure just that ranches and other agricultural uses continue to operate, or will the plan really enhance this?

Craige noted that it was a fact of life that adjacent landowners are impacted by the creation of preserves. The idea is to “minimize and manage” impact on adjacent lands.

Regulatory Compliance

At the end of the day, there should be much more consistent and reliable regulatory processes. (This is the “reward.”) The HCP reduces delays, and makes the project review process faster and less costly.

Q: Does this work for things beyond species issues? What about wetlands, etc., where you have to deal with some permitting separately regardless?

A: Yes, though it’s not clear how these processes will work together yet.

On the last page, there are other ways to reduce permitting for both public and private agencies, and to streamline.

Example: Rancho Cordova, with development related to vernal pools. Federal agencies later took out some of the critical habitat designation. Let’s do a good job so that there’s not a need for the federal agencies to come in and change the designations.

This is not a moving target—there will be a limited set of surveys and some incorporation of avoidance measures. This way, there is only one permitting process, rather than multiple processes.

Q: Will developers, cities, etc. go through a training to learn to understand the HCP process?

A: Yes! Also, there will be an opportunity to walk through possible scenarios and make sure the plan works.

Effective and Efficient Implementation

There is a big cost connected to the HCP—the process must work effectively. How should this be set up?

Tim would like to see lands purchased and managed separately under a nonprofit, supported by fee structure.

David provided examples:

- Sutter County and Sacramento are being run by conservancies set up as the operators of the HCPs. A portion of the fee goes to an endowment.
- In contrast, Contra Costa has no long-term endowment setup. They have enough funding for first 30 years, but will figure out long-term funding within the first 15 years.
- San Diego was being managed by a nonprofit that went bankrupt—the group needs to be cautious with implementation strategies.

David added that the economic consultant will help with creative financing.

Tim suggested that discussion on the implementation bullets be tabled till the group knows more.

Ken added that the timing may be somewhat different—willing buyer/seller is a straight policy issue, but identifying the implementing entity is both policy and procedural. This can be reworded in light of comments, however.

Kenn added that the group also needed to know the status of things like adaptive management. Don’t use outdated best practices!

Carolyn suggested identifying habitat areas and creating outreach programs for landowners to identify willing sellers in habitat areas.

Ann concluded the goals discussion by noting that the Management Team will come back with recommendation for next steps.

IV. REVIEW AND DISCUSS CONSTITUENCY REPRESENTATION TOOLS

Karen Molinari of Jones & Stokes commented on tools she is developing that would help Stakeholder Group members regarding constituency representation. Now that the public involvement contract is signed, there will be more opportunities for outreach.

The plan will soon have a website that's easily accessible and functioning—it will push information out based on interest level, and allow people to provide input.

What modes of outreach have various groups used thus far? How can Jones & Stokes participate in meetings, share feedback, etc.?

Ken noted that each participant has a stake in this, and a community of people they represent. Sometimes as the process moves on an advisory group becomes more inwardly-focused and stakeholders know what's going on, but the groups get left behind. He wants to minimize this. If a group has a meeting, newsletter, website, etc.—link the HCP process into this on a regular basis!

Karen asked if anyone had something coming up. Brenda had a deadline for Friday for a newsletter—if people can get something to her, she'll get it in.

Other members noted that it would be great to have a prepared presentation on what an HCP is.

Karen may be contacting people to do informal surveys to find out more about countywide impressions of process.

VII. PUBLIC COMMENT AND NEXT STEPS

The next meeting is scheduled for Tuesday, April 25, 2006 from 4:00 – 6:30 pm.