

SANTA CLARA VALLEY
HABITAT CONSERVATION PLAN/NATURAL COMMUNITY CONSERVATION PLAN
Stakeholder Group Meeting | June 25, 2008 | Morgan Hill Community & Cultural Center

IN ATTENDANCE:

Stakeholder Group Members:

Jack Bohan (representing General Public)
Kevin Bryant (California Native Plant Society)
David Collier (Sierra Club)
Craig Edgerton (Silicon Valley Land Conservancy)
Rick Hopkins (Home Builders Association of Northern California)
Peter Mirassou (Agriculture/Landowner)
Bob Power (Santa Clara Valley Audubon Society)
Kenn Reiller (Pajaro Watershed Council)
Brian Schmidt (Committee for Green Foothills)
Jack Sutcliffe (Santa Clara County Farm Bureau)
Carolyn Tognetti (Save Open Space Gilroy)
Lloyd Wagstaff (The Nature Conservancy)

I. WELCOME & INTRODUCTIONS

Joan Chaplick welcomed the group and noted that since the community meeting is from 6:30 to 8:30 the meeting will be shortened by half an hour. Keith Anderson, Bob Loveland, Virginia Holtz and Jan Hintermeister were unable to attend.

II. UPDATE ON PLAN PROCESS & SCHEDULE

Ken distributed an updated schedule. David Zippin distributed Chapter 9, Costs and Funding, Chapters 10, Assurances, and Chapter 11, Implementation. These will be the last revisions before the first Administrative Draft is distributed by the end of July, In the Admin Draft, Chapter 1 through 8 will be in track changes so response to comments will be visible. Chapters 9, 10 and 11 will be discussed at the July Stakeholders Group meeting.

Ken noted that ideally most concerns will be addressed in the revisions that are part of the first administrative draft. Some may not be adequately addressed until the second administrative draft is revised, however. The new schedule and framework should still be workable. At this point, most elected bodies and officials are also aware of and have a working knowledge of the HCP process, something that was not the case earlier in the process. At least parts of the document will come back to the elected bodies once more later in the process. The team also gained knowledge and feedback by bringing the document to the elected bodies.

FAHCE will also continue to interact with this process as it looks like their HCP will be adopted at the same time if not before, so the two plans will be interlinked. Regarding viability of the current schedule, there are also some unknowns—for instance, staff at the wildlife agencies who are not working directly with the project, but who nonetheless need to review and approve the HCP. Their schedules and workloads may impact the schedule.

Stakeholder meetings will continue during the review process for the First and Second Admin Drafts and then through review of the Draft Habitat Plan, since there will be a number of other agenda items to discuss.

III. UPDATE ON PLAN ELEMENTS

Plan Implementation

One stakeholder asked how the implementation process would move forward. This has not yet been determined. As long as the plan is implemented as it's approved, the implementation process itself is not part of the adopted Habitat Plan. The implementing agency needs to become effective by the start of the permit period. This action is noted on the schedule.

There will likely be at least one and possibly a second full update in cases where there are hot-button issues that need to be more extensively revisited (*e.g.*, stream setbacks with the County) to ensure that the partners are fully on board.

Kenn Reiller wondered about the record of decision and what this might include. It will not be as complex as the records for some other plans and projects, but the data is nonetheless extensive.

One stakeholder wondered whether the HCP or simply the implementation agreement will be legally enforceable. How will this be handled? The HCP will be part of the permit, so it will be legally binding and will have legal weight with the implementing agreement, except where the two conflict. In those cases, the implementing agreement trumps the HCP. The project team is working to minimize the conflicts between the two to avoid these situations.

The Implementation chapter also describes how the reserve system will be assembled in terms of land and agencies. The implementing agency will likely not be doing much if any land acquisition on its own.

Staff also noted that the Water District's Stream Maintenance Program has its own set of permits.

If funds come in from an outside entity for land, will the land be credited against the recovery enhancement or mitigation obligations? It depends. If it's a permittee that's providing the funding, it might count on the mitigation side. In all other cases, it only counts as recovery/enhancement. David Collier wondered if the plan was banking on this in any way. If the money didn't come through to purchase the land, will the plan fail to meet its goals? Yes, it would—the plan relies on this additional money. The partnership agreement is essential for the plan to succeed. However, this is a fifty-year plan and there is a long history, over time, of these types of partnerships, so it is unlikely that these partners will vanish. In addition, in other areas there are already active, functional partnerships even in a difficult economic era.

Non-permittees need some assurance themselves that land that is not owned by permittees will be managed in a predictable and effective manner. The word "beneficiaries" could be problematic. Who is going to own the easement is the key issue. If a non-permittee pays half of the land cost, for instance, the permittee gets credit for the full 100 percent if it meets the criteria and is managed and monitored as part of the reserve system.

David Collier noted that the document should explicitly note that the implementing agency will carry out monitoring and management tasks.

Ken noted that one theme that is recurrent is that the implementing agency should make use of existing resources, and not create a new bureaucracy. It should contract for services wherever possible, and not create new infrastructure. This might be in conflict with the suggestion that the implementing agency itself do the management and monitoring—for instance, you might want to contract with the Water District or County Parks to do this work.

David Collier requested that the document note additional powers that the agencies have—particularly the power to put an emergency halt on permitting in a dire case in which a species is suffering.

Joan noted that because there were many agenda items, some conversations might be best tabled until next month's meeting to make sure that everything critical for today gets discussed. The group then moved on to the next agenda item.

Impact Analysis Update

David Zippin distributed a description of a tool to approximate the amount of impervious surfaces. The accompanying map is new and divides the Study Area's streams into Upper and Lower Watersheds based on the location of dams/reservoirs. The existing impervious coverage in the Lower Llagas watershed (below Chesbro Dam) at first seemed quite high at 10.9% but is reasonable given the number of developed parcels and amounts of roads and driveways. He also noted that the analysis is still being tweaked, and feedback from the wildlife agencies will be integrated.

David Collier asked if impervious coverage amounts after implementation of covered activities could be calculated. Yes, the next task is to develop that data.

Conservation Strategy Update

David Zippin discussed draft Table 5-XX. The table compiles Conservation Actions that address stream habitat and covered fish impacts. Preparation of the table came out of discussions on aquatic habitat and conservation issues and the need to compile stream-related conservation actions into one summary document. Prior to assembling the table, it was very hard to grasp an overview of the stream-related actions since they are found in many parts of the overall conservation strategy. The table also triggered identifying the noted implementation priorities (High, Medium and Low) and linking actions to what direct and indirect impact(s) they addressed. The table's grouping of actions is divided into conservation actions applicable to North and South County streams, South County streams and North County Streams. The North County actions are for Coyote and Guadalupe and link to the FAHCE HCP process.

A comment was that the priority heading (Priority for Covered Fish) was misleading in that it really was Implementation Priority.

Pat noted that the notes in the back are especially important to review before reading the document itself. She also brought copies of a brochure describing the FAHCE settlement agreement for anyone who is interested.

Jerry Smith presented two Working Draft handouts on Uvas Creek---Principles to Guide Operation of Uvas Reservoir and Uvas Creek In-stream Flow and Passage Improvement conservation actions. The working drafts have come out of a four year process that he participated in with staff from the Water District, Wildlife Agencies and Keith Anderson to address Uvas Creek Steelhead issues. The draft actions are preliminary and have not yet been reviewed or approved by the Water District Board. The actions are also not yet in Table 5-XX. A major goal is to get juvenile fish in Uvas Creek to the ocean at the appropriate time of year, which requires a scheduled release of water from Uvas Reservoir. One stakeholder asked if pulse flows for three days per month was consecutive. Yes, it is. There's also a carryover goal to ensure that fish will survive in times of drought.

One stakeholder asked whether or not all of the outlined criteria will be met in a given year. Jerry noted that it is not an exact science, but they estimate that approximately 60 percent of years will meet all the criteria. Ken Schreiber also noted that the current conditions of the creeks are historically abnormal especially in terms of the amount and timing of water flow and the amount of streamside vegetation. Variations in the amount and timing of water flow will directly impact implementation of some of the actions.

One stakeholder asked for clarification on the difference between permittees and local partners. Permittees refers to the local partners plus state parks. This language will be clarified.

David Collier wanted to ensure that extreme circumstances are mitigated by adding some notes with respect to the stay-ahead requirement. To that end, the HCP now also includes a discussion of climate change in the changed circumstances section.

Brian asked what the appropriate forum for addressing county policy issues might be since he had specific concerns about a county policy regarding the use of Park Charter funds for mitigation lands. Brian distributed copies of an e-mail describing his concerns. It was agreed that issues of concern to an individual stakeholder could be brought to the group for their information and general discussion. It was also agreed his concern, due to the limited time remaining in the meeting, would be discussed at the July stakeholder meeting. Ken noted that Brian's issue is currently scheduled for the August 12th Board of Supervisors meeting.

IV. PUBLIC COMMENT & NEXT STEPS

Next month will address issues such as concerns about the use of the parks charter fund, feedback on the chapters distributed today, and review process for the administrative draft. The meeting then ended early to allow stakeholders to break before the public meeting began at 6:30 pm.