

SANTA CLARA VALLEY
HABITAT CONSERVATION PLAN/NATURAL COMMUNITY CONSERVATION PLAN

Stakeholder Group Meeting | October 24, 2006 | Morgan Hill Community & Cultural Center

IN ATTENDANCE:

Stakeholder Group Members:

Keith Anderson (South Valley Streams for Tomorrow)
Nancy Bernardi (Guadalupe-Coyote Resource Conservation District)
Jack Bohan (Representative of general public)
Kevin Bryant (California Native Plant Society)
David Collier (Sierra Club)
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)
Bob Loveland (Representative of general public)
Bob Power (Santa Clara Valley Audubon Society)
Kenn Reiller (Pajaro River 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)
Kerry Williams (Coyote Housing Group)

I. WELCOME & UPDATES

Joan Chaplick (MIG) opened the meeting by noting that many of the agenda items from the September meeting had been moved to the October meeting. She also mentioned that the comments received from stakeholders on draft text and related material would be reviewed each month as new comments come in.

Hard copies of a revised Riverine section of Chapter 3 were not available as the October meeting, but they will be distributed at the November meeting.

Ken Schreiber mentioned that notices for the 4th Annual Habitat Conservation Planning Workshop will go out soon—this will occur in Vacaville on Wednesday, December 6th. Those who attended in the past felt that it was very valuable, and the cost is only \$35. The County will also cover the registration fee for any stakeholders who would like to attend.

Ken noted that a court decision regarding the San Diego HCP had come down recently. That HCP, developed in the mid-1990s, relied on the U.S. Army Corps of Engineers permitting process for vernal pool wetlands—but a subsequent court decision reduced the authority of the Corps for vernal pools. There were a number of other problems in the HCP that led the Court to conclude that the vernal pool-related species were inadequately covered. The key point for us is that the practices used in the San Diego plan have evolved since the mid-1990s and the approach used in the San Diego plan would not be considered acceptable with or without the court decision.

David Zippin (Jones & Stokes) announced that the final East Contra Costa HCP is now available:
<http://www.cocohcp.org/>.

One member asked how EIRs for new projects will be dealt with before the HCP is finalized. Any EIRs will be evaluated against the general principles guiding the HCP, although this may be difficult since the plan is still preliminary. Ken Schreiber noted that any private or public sector project proposed before the HCP is adopted is technically an interim activity. Four to six interim projects are processed each month through the wildlife agencies. As the HCP/NCCP develops, information will be incorporated into Wildlife Agency comments on interim projects.

II. DISCUSS COVERED ACTIVITIES

At the beginning of the discussion of covered activities, Ken Schreiber asked that the group also discuss activities that are not covered. Darryl Boyd announced that the Coyote Valley Specific Plan would not be covered. Initially, the City of San Jose thought it would be a covered activity, but after further analysis, have determined it will not be a covered activity. David Zippin added that this did not mean that the project would be ignored; rather, it will be considered as a factor for other elements and impacts. David explained that each local agency partner can propose activities that they would like covered, but they can also decide to withdraw these requests.

Lloyd asked whether an activity can be re-included if partner agencies changed their minds again. David responded that this was a possibility depending on the timing. For this plan, the relevant milestone is before the draft EIR/EIS comes out (early 2008).

David Collier observed that the mitigation systems for the projects could potentially be coordinated as well, even if projects are not covered by the HCP/NCCP.

Lessons from other HCPs

The group discussed lessons learned from several other HCPs. The Natomas Basin HCP funding plan was not successful, for instance, because they set their fees too low to accommodate the mitigation that was needed. The Contra Costa plan has a periodic adjustment built into it that tracks home prices. A final stopgap might be that in order to continue to receive permits, the developers have to bring their own lands.

Covered activities

Development in Gilroy. Several stakeholders commented on Gilroy's build out and the final Gilroy build out line. Gilroy does not have a clearly established ultimate build out line as Morgan Hill and San Jose do. However, only growth within their current General Plan is covered, and if in the future they opt to grow beyond that area, they will need to get an amendment to the HCP.

Water District. Water District activities will be covered, including a reconstruction of Pacheco Dam.

FAHCE. The plan is still to cover FAHCE for state permits. Keith noted that there was some discussion of including the entire FAHCE project in the HCP, and he wondered whether or not this would mean expanding the study area to include Stevens Creek. Pat noted that they would like the FAHCE project to move forward independently so that it can go back to the state sooner.

David noted that the plan would also address what to do if the group later decides that factors like sedimentation should be addressed.

Brian Schmidt noted that it was important to distinguish between Rural Residential and rural residential. He asked whether the extent of coverage would depend on the passage of Measure A—David replied that even without Measure A it would be difficult to determine, but with Measure A it becomes more complicated to identify how the General Plan gets implemented.

What's not covered

- Bay Area/Central Valley high speed train
- New highway between I-5 and Highway 101

- Routine and ongoing agricultural activities
- Commercial vineyard expansion
- Timber harvest operations—do they require permits from the county? A recent decision determined that the County could say where but not how timber harvesting occurred. The State still preempts on the County on the question of how.
- Mercury removal and remediation (though water district activities do at times remove mercury)
- Kirby Canyon Landfill Expansion
- PG&E Operations & Maintenance
- SCVWD Stream Maintenance Program Activities
- Fish and Aquatic Habitat Collaborative Effort (FAHCE) HCP Activities

David Zippin noted that there are a number of activities that are simply beyond the control of the applicants for the HCP. Otherwise, activities are covered to the extent that they affect covered species (e.g., redevelopment is not covered, because it doesn't directly affect the covered species).

David Collier felt that it wasn't clear whether the vineyard exclusion referred to new vineyards or all vineyards

Kenn Reiller felt that the levy reconstruction question was a significant one. For instance, the federal agencies don't like trees in levies, but many county levies have these and they may have species living in them.

David Collier had a problem with the last paragraph in 2-3, page 2-2. This includes a list of activities that are intended to be covered, and a list of those that aren't. A project can't be covered if it is unclear if it is going to exceed the cap for the allocation of impact. Perhaps the problem could be solved by making this language a bit clearer.

III. DISCUSS CHAPTER THREE & APPENDIX D

The discussion of Chapter Three opened with Keith Anderson's comment that there is a general absence of any mention of Pacheco Creek in this section. However, this may have been remedied through the addition of the new Riverine section. Keith was also concerned that known information about the area's streams is not included in this section. For instance, there is no temperature information on the creeks—but the Water District has been measuring this for three years.

There is concern about uncertainty in the land mapping, the concern is also shared by the science advisors. There is a higher certainty with respect to some kinds of land types than there is for others. If there's little uncertainty in where the habitat is and where the species is, you can set aside land very easily. If the uncertainty on either side is higher, however, you'll want to set aside more land to compensate.

David Zippin agreed, and noted that there are checks built into the process to try to mitigate this. The habitat models will also need to be verified.

Steelhead

We want to be consistent with how this has been addressed in other programs—stream maintenance and FAHCE. There are two methods: population-based and habitat-based. However, the information on the species isn't strong enough to use a population-based approach, so it will be a habitat-based approach.

Kenn Reiller suggested looking to the TDML action plan for the Pajaro Valley, which uses a surrogate species for the steelhead. He can email a PDF of this.

General comments on Chapter Three and Appendix D

Keith advocated for getting a rewrite of the Chinook and steelhead salmon species section.

Jan asked what would be done with the burrowing owl section. He feels it has a number of inadequacies as far as what is usable habitat for burrowing owls—primary and secondary habitat designations should be reversed.

Kenn Reiller noted that information specific to dams needs to be included in the Riverine section—it's missing right now.

Carolyn noted that she was missing the California tiger salamander section, and is concerned about Figure 2, which talks about occurrences within the study area. David Zippin also noted that it is not a safe assumption that just because a species is declining overall, it's declining in the study area—in the Central Coast range, the salamanders may even be stable.

What's happened with the species that were being considered to be dropped? Jones & Stokes has recommended dropping five of the seven, but keeping the two plants. They had been waiting to make the decision until the science advisors' report was ready, but this has been delayed two months so Jones & Stokes now wants to go ahead.

Kevin Bryant has information for the plants section and will forward it to Joan for use by the project team.

IV. DISCUSS STAKEHOLDER COMMENTS RECEIVED TO DATE

The group briefly reviewed stakeholder comments received to date. On Chapter One, one member noted that the criteria for no-take species may be too restrictive—maybe these should be defined as species whose viability is in question if take is allowed.

One stakeholder asked why all special status species shouldn't be considered for coverage under the plan. David Zippin noted that different jurisdictions take different approaches—e.g., San Diego, which is still trying to cover 150 to 200 species. It's easier, David thinks, to focus on a smaller number of species and ensure that they're adequately addressed. It's also clearer why the species have been chosen.

One stakeholder observed that, given that preservation is designed on the basis of land cover and land type, it might be useful to know whether the span of a species habitat was within this area.

Craig wondered if there was an additive element to protecting land. David Zippin noted that sometimes this applied, but there are often areas that are critical and irreplaceable for a single species, even if others are not present—you don't want to neglect these lands either. These factors will be specified and balanced in the plan.

Kenn Reiller is concerned with how the Water District's water maintenance section is written. For instance, what about ponds that are right next to streambeds? This could have a direct impact on the streams. When ponds are clean, they're synchronized, and this drives the mitigation strategies.

Keith requested that a date be placed on each version of the stakeholder comments. This way, the newest version can replace older versions. Virginia added that it's helpful if it says "revised" when applicable.

V. OUTREACH & COMMUNICATIONS

Ken Schreiber spoke about the community meeting on the 29th. The general public turnout was lower than hoped for, but there was good turnout from the stakeholder group. Kevin Bryant noted that a little more lead time might have helped since it would have made it into newsletters, etc.—three weeks was too short a time. The date for the next community meeting is Thursday, April 19, 2007 in Morgan Hill

The group is looking for speaking opportunities—potentially for staff or for stakeholders. This will help raise awareness. Ann Draper asked if there was a target audience—e.g., rotaries, an organization that is often looking for speakers.

Ken asked that those members with organizations that have websites to add a link to the HCP site to push the site up in Google searches. Species “trading cards” and other tools are also in development and will be available for groups soon.

Kenn Reiller mentioned that he really liked the simplicity of the poster session, and would like to see more things like this.

VI. INTRODUCE CONSERVATION GAP ANALYSIS & CONSERVATION PLANNING PRINCIPLES

David Zippin introduced the conservation biology principles, the first of what will be many strategies. He noted that it is important to design and assemble the system correctly. This requires good planning in addition to considering the habitats and species that are covered.

The general principles guiding the planning are drawn from the science of conservation biology. These become important when considering which areas to preserve.

David Zippin asked the group if they felt that this section had captured all of the general principles of conservation biology that you would expect to see.

Keith noted that a willing seller is a complicated requirement—but David Zippin pointed out that if the program is designed properly, there should be enough funding to create willing sellers. He also noted that a challenge would be designing a program that would create willing sellers through incentives. Until now, there has been no market except subdivisions—so we have to realize the financial landscape will change.

David Collier wondered how detailed the plan would get—it seems that it’s at a very macro level. David Zippin confirmed that it would be detailed, but it might use techniques like narrative description rather than maps to describe this.

David Collier suggested including urban use buffers. We have a buffer for urban impacts, but perhaps we want one for rural uses too. David Zippin responded that they would consider this.

Conservation gap analysis

The conservation gap analysis illustrates what’s already protected and identifies the gaps. We need to figure out how much of the gap this plan will be responsible for filling. For instance, if only 10 percent of a species habitat is protected, the HCP probably won’t cover the other 90 percent—but it can cover some of it.

You can see all four types of open space on the map now; they range from Type 1, which is permanently protected with ecosystem or species management as a primary purpose, to Type 4, which is urban neighborhood parks and other areas with no habitat value.

The tables in this section list where species occur—not just habitat areas. (For instance, with the checkerspot, the conservation gap is 6,000 acres. Some of these are potential habitats, though—for instance, parks with no grazing cattle, where management changes would fill the gap since the land itself is already protected.)

David noted that “count” is not necessarily acres—it’s just units (e.g., pixels in some cases).

The group will be discussing this next month, so comments can come then or via email before then.

VII. PUBLIC COMMENT & NEXT STEPS

Joan noted that the December meeting would be held on December 19th, the third Tuesday, instead of on the fourth Tuesday, due to the Christmas holiday.