

SANTA CLARA VALLEY
HABITAT CONSERVATION PLAN/NATURAL COMMUNITY CONSERVATION PLAN
Stakeholder Group Meeting | November 16, 2005 | Morgan Hill Community Center

IN ATTENDANCE:

Stakeholder Group Members:

Keith Anderson (South Valley Streams for Tomorrow)
Jack Bohan (Santa Clara County Planning Commission)
Kevin Bryant (California Native Plant Society)
Craig Edgerton (Santa Clara County Open Space Authority and Silicon Valley Land Trust)
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)
Kenn Reiller (Pajaro River Watershed Council)
Bob Rohde (National Resource Conservation Service)
Brian Schmidt (Committee for Green Foothills)
Brenda Torres (Audubon Society)
Lloyd Wagstaff (The Nature Conservancy)
David Wei, Jr. (California Land Design)
Bill Young (Sierra Club)

I. WELCOME

Meeting Objectives & Agenda

Goals for this meeting included introductions, an overview of the process, introduction of the covered species list, and the establishment of group operating protocols and a standing meeting time and location.

II. SELF-INTRODUCTIONS AND EXPECTATIONS FOR THE HCP/NCCP PROCESS

Group members introduced themselves and shared their concerns and expectations for the next three-and-a-half years. Members represented a diversity of organizations, agencies, cities, and constituencies across Santa Clara County, and came from as far away as San Francisco. A number of members expressed a desire to have a meaningful stakeholder process, and hoped that the Stakeholder Group's recommendations would be actively heard and carry due weight in the planning process. Local Partner agency representatives assured them that they, too, were committed to the public process. Another member suggested exploring the preservation of habitat for covered species from an ecosystems function perspective. Other group members underscored the importance of the time commitment the planning process will entail, and still others hoped the plan would help to maximize protected habitat in the region. Many group members were new to the HCP/NCCP planning process, and enthusiastic about learning along the way.

Joan Chaplick (MIG) explained that she would serve as a neutral facilitator in the group process, while David Zippin (Jones & Stokes) and Ken Schreiber, Program Manager, would provide content expertise and coordinate with Joan to develop the agenda and related materials. Diana Sherman, MIG, will take minutes and create a summary report for each meeting.

Joan also explained that a three-ring binder and book on the HCP process would be provided to each group member; all material will be distributed on three-holed paper to fit easily into the binders.

Group members had a number of questions:

- Who should members direct questions to?
 - To Joan Chaplick (by telephone at 510-845-7549 x 142, or by email at joanc@migcom.com)
- Will summaries of each meeting be provided?
 - Yes—members should check the county’s website for updated meeting minutes. They will also be distributed by e-mail.
- Will group members have access to Jones & Stokes’ technical information and data?
 - Probably not, but some subsets of this material will be distributed at meetings.
- Can meeting materials be provided to members in advance?
 - Yes, all materials will be sent via email about ten days in advance.
- Can Jones & Stokes provide loaner copies of reference documents and major reports to members?
 - Possibly; David will explore this option, but most material will either be distributed at the meetings or will be available online through the original source.

III. OVERVIEW OF HCP/NCCP PROCESS

David Zippin of Jones & Stokes introduced himself. He has worked on HCP plans for eight years, and has overseen planning processes all over the state, from San Diego through the Central Valley. He also teaches courses on HCPs through the UC Extension program. He will offer a one-day workshop on January 21, 2006 from 10 am to 3 pm. Stakeholder Group members are invited and encouraged to attend to get a better grounding in the process.

What is the HCP/NCCP?

David explained that Habitat Conservation Plans:

- Are federal mechanisms to resolve conflicts between threatened or endangered species and development;
- Can be for single projects or a group of projects (as with a regional HCP); and
- Can allow multiple applicants to get take permits, if an HCP covers a region.

The Natural Community Conservation Plan (NCCP) is a state mechanism to accomplish this and to comply with CESA (the California Endangered Species Act). At the state level, the NCCP is one of two ways to get take authorization. NCCPs are typically regional, and are often combined with HCPs.

David also explained the differences between an EIR (environmental impact report) and an HCP:

- An EIR is a disclosure of the full range of impacts to comply with CEQA, while an HCP complies with the Endangered Species Act.
- An EIR doesn’t give you permits from Fish and Game/Fish and Wildlife.
- Ultimately, the HCP process will also yield a separate environmental review document for CEQA/NEPA.
- An EIR is required because a local jurisdiction’s adoption of the HCP is an action subject to CEQA.
- The Stakeholder Group will not be formally involved in the EIR/EIS process, which is typically not a stakeholder-driven process.

A group member asked which of the six partners is responsible for selecting the EIR consultant. David noted that all of the local agencies helped select Jones & Stokes and MIG. For contracting purposes, the County is the lead agency, but all decisions are made in consultation with the Local Partner agencies.

Plan Origins

David noted that the plan emerged from a growing need for regional conservation. In 2001, USFWS issued a biological opinion on projects with regional impact that required a regional HCP. (Project included Highway 101 widening; Bailey Ave interchange; others.) The deadline for the original opinion has long since passed, but USFWS sees the progress as reasonable. The opinion was originally issued to the City of San Jose and the VTA, who will be active participants.

Staff and material from USFWS and CA Fish and Game will be available as technical advising resources. Both agencies regard this planning effort as one of the highest priorities in Northern California.

The Planning Agreement between Santa Clara County, the City of San Jose, the Santa Clara Valley Water District, the Santa Clara Valley Transportation Authority, and the Cities of Gilroy and Morgan Hill was signed on October 20, 2005.

Organizational Structure

In addition to the Stakeholder Group, the players in the creation of the plan will include:

- Governmental bodies of each of six local agencies responsible for the plan (Cities of Gilroy, Morgan Hill and San Jose, the Santa Clara Valley Water District, Valley Transportation Agency and the County);
- Management Team;
- Coordinating Committee;
- Independent science advisors;
- Liaison Group;
- Wildlife agencies; and
- The public.

Plan Goals

The HCP/NCCP will:

- Allow appropriate compatible growth and development;
- Provide permits and authorizations to allow take of listed species; and
- Provide take authorization for covered species that are not currently listed but may be in future.

David underscored that NCCPs are not mitigation plans. They do, however, provide a means of coordinating and standardizing mitigation and requirements of FESA, CEQA, NEPA, and NCCPA. The plans also ensure that public and private actions will be governed equally and consistently, reducing delays, expenses, and regulatory duplication.

What the Plan Will and Won't Do

The plan will:

- Provide permits from USFWS, NMFS (NOAA), and CDFG for take of listed species to listed partners;
- Streamline projects;
- Improve mitigation; and
- Provide new funding.

The plan will *not*:

- Be an end-all for habitat or species conservation planning;
- Eliminate the need for projects to comply with ESA, CESA, CEQA, or other state, local, or federal laws; or

- Solve all environmental conflicts.

David noted that some HCPs are criticized for their role in facilitating development rather than stopping it, but in fact, the plans primarily serve to direct development. During the interim period while the HCP/NCCP is crafted, local jurisdictions will flag any projects that have the potential to conflict, and will notify state and federal agencies as required. Most local agencies will be conservative about the flagging process, especially given concerns about too many small projects getting underway before the plan is finished, given that a likely outcome is a fee for development.

Ken Schreiber noted that the HCP process is not a general plan update-style process; it starts with the assumption that existing general plans will be the basis for development in each area. The process will not amend or propose amending local general plans.

Another group member noted the importance of recognizing how maintenance of existing facilities (e.g., parks, roads, and culverts) are also covered by this planning process.

Process and Schedule

The group will:

- Establish a decision-making structure
- Develop a draft of the HCP/NCCP; and
- Offer a public draft of the HCP/NCCP.

The document could be as long as 1500 pages, so production will be staggered and it will be distributed in small chunks so that it can be reviewed and developed collaboratively.

Content

Study area

An initial study area was defined in a Memorandum of Understanding adopted in 2004 by San Jose, SCVWD, VTA and the County and a Planning Agreement between the local agencies and Fish and Game and the Wildlife Service. An early task is to refine the study area and several changes were discussed with the Liaison Group (i.e., elected officials representing their agencies) in October. The original study area of about 440,000 acres is being expanded to about 520,000 acres. The study area is based on watershed boundaries, serpentine and bay checkerspot butterfly habitat, county and city jurisdictional boundaries, and land use boundaries.

Additional Questions and Concerns

Q: Can this be done in three-and-a-half years?

A: The Contra Costa plan has been underway for three years and is on track. (See <http://www.cocohcp.org> as an example.)

Q: What does the plan really mean? What does it do for developer X?

A: Developer can go to the local planning counter, pay a single predefined fee, and receive authorization through local agencies to take the listed species—they will not have to go through Fish and Game or Fish and Wildlife. Any mitigation is built into the HCP—so you get a consistent response from relevant agencies. This will also help keep mitigation funds within the County.

Q: Does the entire plan go to agencies at once, or is it getting approved all along?

A: There is a continual feedback loop from the agencies to help ensure approval.

Q: How is the HCP updated? Can it be challenged as information ages?

A: On the conservation side, we learn more and more—the State requires that adaptive management be integrated into the plan. Federal and state governments provide some bounds on this—it is not an endless loop. Many plans also include adjustable fees as costs rise.

Q: What is the permit term?

A: This decision hasn't been made yet, but it typically ranges from 20 to 100 years. (30 to 75 years is most common.)

Q: Can the HCP make it more difficult to protect a species that isn't mentioned in the plan?

A: The plan will be geared towards covered species, but there are usually many incidental benefits to non-covered species—however, the process will try to include any species on the cusp of getting listed.

IV. DEVELOP AND DISCUSS GROUP OPERATING PROTOCOLS

Joan Chaplick (MIG) opened the discussion of the group's purpose, mission, and roles. She noted that these statements would be reviewed and updated in the future, as the group's needs change and their understanding of the project increases.

Review Stakeholder Group Purpose, Mission and Roles

Purpose

- Add NMFS to the purpose statement.

The primary purposes of developing the HCP/NCCP are to facilitate obtaining incidental take permits from the US Fish and Wildlife Service, *National Marine Fisheries Service* and the CA Department of Fish and Game and to develop a long-term conservation plan to protect and contribute to the recovery of sensitive species and habitats in Santa Clara County while allowing for appropriate development and maintenance activities that are compatible with other local policies and regulations.

Mission

- Add more explicit reference to elected officials' roles.

The mission of the Stakeholder Group for the Santa Clara Valley HCP/NCCP is to provide ongoing, organized and effective publicly based input to the Management Team, consultants, Liaison Group *and elected officials*. Stakeholder Group members provide advice and review assistance on issues related to the goals of the Santa Clara Valley HCP/NCCP. Stakeholders also share information with and seek feedback from the constituencies they represent.

Roles

- Recognize that the interests and stakeholders may extend beyond Santa Clara Valley—perhaps this should be clarified as the process moves forward. Insert the word “regional”.
- What is the structure of the process—is the Stakeholder Group making recommendations directly to elected agencies, or to the consultants and management group? This should be reworded to make it clear that recommendations go to all groups.
- It may be useful to highlight the roles and responsibilities of each group in the process (e.g. the Liaison Group—what is their role? They provide advice to management team, and link to elected bodies and key contacts with each of the agencies.)
- Joan will send the MOU to the group to review roles and responsibilities.
- Members would like to feel that they're reporting to an entity—initially this can be the management team.

Role Statements (revised)

- Provide ongoing organized and effective publicly based input to the Management Team, consultants, Liaison Group *and elected officials* including reviewing and commenting on major work elements and products.
- Assist the Management Team, consultants, Liaison Group *and elected officials* to gain a broader understanding of public and interest group perspectives.
- Provide a forum for interaction/communication between representatives of the Wildlife Agencies and individuals representing Santa Clara Valley *and regional interests*.
 - For key work products and at key points in the planning process, make recommendations to the Management Team, consultants, Liaison Group *and elected officials*.
- Provide advice regarding additional public outreach efforts.

Identify Regular Meeting Time and Location

Joan polled the group to identify convenient meeting times, and found that the only options were 2nd Mondays and 4th Tuesdays.

Next meeting:

December 12th from 4-6:30 pm in Morgan Hill (El Toro Room)

Standing meeting:

4th Tuesdays from 4-6:30 pm in Morgan Hill (Room TBD), beginning January 24th

V. INTRODUCTION OF COVERED SPECIES LIST

David briefly reviewed the covered species list, and asked the group to review the memo on these, since it provides a background on what covered species are. Currently, 33 animal species and 15 plant species have been recommended for coverage in the plan. (Some are no-take species.) Discussion of covered species will be on the December agenda.

VI. PUBLIC COMMENTS AND NEXT STEPS

- MIG will send the MOU to the group and will resend the memorandum about the covered species list for those who may have a photocopy that did not have the charts properly placed. David will offer an HCP training on Saturday, January 21, 2006—members are encouraged to attend.
- Members should read the memo on covered species.
- Material for the December meeting will be emailed to the group at least ten days in advance.