



**Town of Marana Habitat Conservation Plan
Stakeholder Working Group
Thursday, June 26, 2008, 1-3pm
Marana Operations Center, 5100 W. Ina Rd.**

MEETING MINUTES

1. Attendees

Lori Woods, Recon for Town; Larry Kreis, Red Pt. Development; Joan Scott and Locana de Souza, AGFD; Mike Steele, Tierra R-O-W for AZ State Land; Matt Clark, Defenders of Wildlife; Carolyn Campbell, Coalition for Sonoran Desert Protection; Paul Popelka, Jennifer Christelman, Frank Cassidy, and Janine Spencer, Town of Marana.

Unable to Attend

Liz Petterson, Nancy Ellis, David Mehl, Steve Trussel, Jaimie Galayda, Gary Abrams, Diana Freshwater, Sarah More; Jason Meininger, Carol Somers, Scott Hughes. Sherry Barrett, Scott Richardson, Kent Taylor, Pinal County.

2. Approval of May 29, 2008 Minutes

No revisions were requested for the May 29th meeting minutes, so they are considered accepted and will be posted on the Town's website.

3. Updates

Meeting with Fish & Wildlife Service: Wording suggested by Scott Richardson to the effect that "If protection of a designated area renders a lot of no return or use, the landowner can discuss this with the Town and FWS to determine a solution" (for example, in cases where so much of the lot is covered by a wildlife corridor that there is no room to build a house.) FWS also recommended including more of the washes on northern portion of the Tortolita Fan, east of I-10 in the riparian map. They suggested we compare the Pima County riparian map with the ordinances to determine whether the map is tied to the ordinance and the extent of protection on the xeroriparian classes with sparse vegetation. FWS also provided assurances that if cactus ferruginous pygmy owls are reintroduced in an HCP area, no additional requirements for mitigation will mandated; the activities will be covered under the incidental take permit (ITP). FWS also suggested initiating an "Adopt A BOMA" program for burrowing owl management areas. The benefit of the ITP

TBT Meeting on June 18, 2008: The riparian map revisions to add more washes in the Tortolita Fan were discussed, as mentioned above in the FWS meeting update. Start-up for the lesser long-nosed bat and hummingbird feeder study was discussed. Environmentally Sensitive Roadway Design Guideline (ESRDG) criteria were discussed. All public roads in HCP Conservation Zones will be designated as ESRDG, and FWS recommended some specific roads for inclusion under ESRDG status on the west side of I-10. Criteria were discussed to identify other roads on the west side as ESRDG, for mapping by the Town.

Sand and Gravel Proposal: Arizona Rock Products came to Jennifer Christelman with a proposal for "Planting Prototypes for Extraction Operations in Marana, AZ" which was prepared by Margaret Livingston, PhD, and grad. students at the University of Arizona Landscape Architecture School. They

will be meeting with the Town staff on their proposals in a few weeks. Paul Popelka said adding their proposal to the planning code would be the best approach.

Citizens Preserve Initiative for AZ State Trust Land: Carolyn Campbell gave a presentation on this initiative which will be on the ballot this November. She gave some of the history of the process, starting with the 1996 AZ Preserve Initiative, the 1998 Growing Smarter Initiative (which still has \$20 million sitting in the bank), and the 2003 challenge by People for the American West, when the state dropped the program. The 2008 initiative would designate approximately 570,000 acres of State Trust Land (out of the 9.3 million acres currently held in the Trust) as permanent conservation reserve lands, to be managed by the Arizona State Land Department for conservation. This conservation land would be held by the Trust. The proposed measure also allows cities and towns to apply for and purchase additional conservation lands under the Arizona Preserve Initiative. If the 2008 initiative passes, Marana would be able to buy state lands not designated for conservation in the initiative for HCP mitigation. After the initiative passes, Congress would have to revise the Enabling Act 2013. CAHBA (Central AZ Homebuilders Assoc.) has pledged to remain neutral on this initiative.

Land Development Code Revisions: Paul Popelka said that the Town will be revising the Land Development Code by the end of 2008. Carolyn Campbell requested that the SWG and TBT be allowed to see the revisions early. Some parts of the HCP will be incorporated into the General Plan, but the HCP will be presented to Council as a stand-alone document for their approval.

4. Specific Funding Measures

Communities Facilities Districts (CFDs): Frank Cassidy, Marana Attorney, discussed CFDs and said parks are mentioned in the CFD in the statute's definition of "public infrastructure." Marana policy doesn't allow the creation of a CFD unless 100% of the landowners within the boundaries approve; although by law, only 25% of the landowners are required to approve the formation of a CFD for their area. The risks are that the language in the definition says "parks, recreation facilities...and open space for use of recreation, etc." There is the possibility for a challenge at the formation stage of the CFD process; although there are recreational opportunities in designated natural, undisturbed open space. One California Mello-Roos District (CFD) was used to fund an HCP.

The benefit is that the CFD "keeps on giving." An ad valorem tax (based on the value of real estate) can be imposed on an annual basis, for example 30¢ per \$100 maximum of assessed valuation; however, the Town has pledged no property taxes. There has to be a demonstrable benefit to the tax-paying area, i.e. improvements related to the HCP. If there is a CFD established, then the property should be owned by a public entity, not the HOA; although Marana probably doesn't want to take on the responsibility for small areas. The developer could sell the land to some organization (but organizations usually accept lands only if they come with annual operations and maintenance funding). A CFD could be established for other public improvements, with a portion of the funding set aside for open space – this would probably be more palatable.

Sales Tax or Bonds: Would probably be a better idea than a Town-wide CFD. The Town's bond rating was just upgraded, so Marana could establish a general obligation bond to be paid back by

sales taxes. Municipal Property Corporation (MPC) bonds could be sold, backed by Town property as security, and pledged to fund with a sales tax. The Marana MPC is a non-profit corporation created by the Town as a financing mechanism for the purpose of financing capital improvement projects. Under the municipal statute, the Town can bond for acquisition and operations and maintenance. General parks and open space are acceptable uses for the bonds.

We can not use building permit fees, rezoning fees (although we can make a condition of rezoning), or impact fees for O&M. Frank said the sales tax is high already, in relation to other municipalities in the area. Assured perpetuity of the funding for the HCP is also a conundrum. We will need some initial money and then continuing O&M money.

Lori Woods summarized her research on HCP funding mechanisms (see attached memo).

The East Contra Costa County HCP, California imposed development fees to private development. The fees are adjusted annually and they have 3 zones, with different fees depending on the zone. They also have stiff wetland mitigation fees.

The Balcones Canyonlands Conservation Plan (BCCP), Austin, TX also has development mitigation fees. Landowners can consult individually with the USFWS or the county can accept and process applications from landowners, under the BCCP, and the county generates a mitigation fee zone map of individual properties. Some funding problems have arisen with this plan.

Clark County Desert Conservation Program and MSCP has a \$550 per acre disturbance fee paid for each non-municipal acre (up to 130,000) disturbed. The fees are collectively administered by the County under an endowment fund. The plan also restricts some multiple uses on public land with development in other areas.

The Lower CO River MSCP includes many permittees. CA state bonds are used for land acquisition. Prop. 84 authorizes bonds for clean drinking water, water quality, and flood control.

Lori also researched federal and state grant funds available: HCP Planning Assistance Grants, HCP Land Acquisition Grants, Recovery Land Acquisition Grants, and Conservation Grants. The attachment describes some of the projects funded by these grants. (I am including some bond information from the City of Scottsdale as well for review).

5. Adjourn Meeting adjourned at 3:30 pm.

ACTION ITEMS

1. Town Staff

- Janine and Jennifer will continue to follow up with the Town attorneys and others to identify funding mechanisms for the HCP.
- Janine will revise the riparian map for submittal to FWS for approval, and then the SWG and TBT will be given a map.

NEXT MEETING: July 31, 2008, 1:00 pm at the Marana Operations Center.

Lori Woods' HCP Funding Research

East Contra Costa County Habitat Conservation Plan / Natural Community Conservation Plan (HCP/NCCP, California)

Development Mitigation Fees: The East Contra Costa County Habitat Conservancy was created to oversee assembly and operation of the HCP/NCCP Preserve System and ensure compliance with all terms of the HCP/NCCP, permits, and Implementing Agreement. The Conservancy is run by a Governing Board of representatives from the cities and the County. Development Fees are applied to private development and are adjusted annually. (<http://www.co.contra-costa.ca.us/depart/cd/water/HCP/news.html>). 2008 Fees are as follows:

Development Fees (per acre)

Zone I	\$12,078
Zone II	\$24,155
Zone III	\$6,039

Wetland Mitigation Fees (per acre, except as noted)

Riparian woodland/scrub	\$61,969
Perennial wetlands	\$84,799
Seasonal Wetland	\$183,731
Alkali wetland	\$173,947
Ponds \$92,409 Aquatic (open water)	\$46,748
Slough/ Channel	\$105,455
Streams 25 feet wide or less - fee per linear foot	\$505
Streams greater than 25 feet wide - fee per linear foot	\$761

Balcones Canyonlands Conservation Plan (BCCP, Austin Texas)

Development Mitigation Fees: The Coordinating Committee is the governing body that directs the implementation and administration of the USFWS regional 10(a)1(b) permit known as the Balcones Canyonlands Conservation Plan (BCCP). The Coordinating Committee is composed of one representative from each of the Permit holding bodies, a representative of the U. S. Fish and Wildlife Service, and a Secretary appointed by the voting Committee Members.

Status of BCP Land Acquisition: 30,428 acres of suitable endangered species habitat are required to be assembled and managed within twenty years of issuance of the Permit (i.e. by 2016). The BCCP Managing Partners (Travis County, the City of Austin, and the Lower Colorado River Authority), in cooperation with non-profit conservation organizations Travis Audubon Society and the Nature Conservancy of Texas and private landowners, have already assembled more than 28,000 acres (or

over 92%) of the permit acreage required total to date.

Landowners may consult directly with the U.S. Fish and Wildlife Service (USFWS). USFWS may require that the landowner create a Habitat Conservation Plan and secure a federal Incidental Take Permit (also known as a 10a Permit) before beginning any clearing or construction.

Travis County administers an alternative Public Participation process referred to as the Balcones Canyonlands Conservation Plan (or BCCP). Under the terms of the BCCP, Travis County Natural Resources accepts and process applications from landowners, and generates mitigation fee zone maps of individual properties. Landowners are then advised about mitigation options that may best suit their intended uses.

Mitigation fee zone determinations applications are processed free of charge and do not obligate landowners to participate in the plan. Most determinations are completed within 2-3 weeks of receipt of a completed application.

Note: For participants that were looking for an economically sound and expedient way for development to continue, the plan has not been viewed as successful. One participant noted that this plan has started a small industry in the Austin area, with consulting firms writing HCPs for individual, small landowners. Another interviewee said it is less expensive for individual landowners to write their own HCP and negotiate cost with FWS independently than to enroll in the BCCP plan. Mitigation costs for participants in the BCCP are significantly higher than in other similar plans. This participant felt this indicated a failure of the BCCP process.

Some participants noted that the funding structures for the BCCP are still being debated in the Austin area. The plan for financing land acquisition has not worked as well as envisioned. Interviewees suggested that FWS should determine a method to aid the funding of new projects, whether through expert advice or providing funds. Although this plan was approved by FWS and is being implemented, it might still fall apart due to funding problems and be considered a failure.

[Clark County Desert Conservation Program & Multiple Species Habitat Conservation Plan](#)

Disturbance Fee: Section 2.1.9 of the MSHCP describes the \$550 per acre disturbance fee to be paid for each non-municipal acre (up to 130,000) disturbed under the MSHCP Section 10(a)(1)(B) permit. These fees are collected by the permittees (County, NDOT, Cities of Boulder City, Henderson, Las Vegas, Mesquite, and North Las Vegas) and collectively administered by the County in an endowment fund. These funds would be used to implement the MSHCP. In addition, external funding sources may be used to augment the section 10 funds. External sources currently include Section 7 funds and Southern Nevada Public Lands Management Act funds designated for the development of multiple species habitat conservation plan in Clark County.

Note: Over 90 percent of the land in Clark County is owned and managed by ten federal and state agencies, the most significant of which is the Bureau of Land Management (BLM). Because most of the remaining tortoise habitat can be found on these lands, mitigation limited to the Las Vegas valley

not only would fail to protect the majority of the tortoise population, but also would be economically impractical. Instead, the plan restricts some multiple uses of public land, while sanctioning development in areas, primarily in the Las Vegas valley, deemed too isolated or costly to protect.

Funding was levied by charging development fees that paid for, among other things, on-the-ground enforcement of the reserve areas. Furthermore, as part of the plan, the county agreed to purchase grazing privileges from any willing sellers.

Lower Colorado River Multi-Species Habitat Conservation Plan Program

Federal Partnership: The LCRMSHCP is funded by the permittees in partnership with the U.S. Bureau of Reclamation.

I. Covered Permittees

The Permittees covered by this Permit include the following:

Arizona: The Arizona Department of Water Resources, the Arizona Electrical Power Cooperative Inc., the Arizona Game and Fish Department, the Arizona Power Authority, the Central Arizona Water Conservation District, the Cibola Valley Irrigation and Drainage District, the City of Bullhead City, the City of Lake Havasu City, the City of Mesa, the City of Somerton, the City of Yuma, the Electrical District No. 3, Pinal County, Arizona, the Golden Shores Water Conservation District, the Mohave County Water Authority, the Mohave Valley Irrigation and Drainage District, the Mohave Water Conservation District, the North Gila Valley Irrigation and Drainage District, the Town of Fredonia, the Town of Thatcher, the Town of Wickenburg, the Salt River Project Agricultural Improvement and Power District, the Unit "B" Irrigation and Drainage District, the Wellton-Mohawk Irrigation and Drainage District, the Yuma County Water Users' Association, the Yuma Irrigation District, and the Yuma Mesa Irrigation and Drainage District;

California: The Bard Water District, the City of Needles, the Coachella Valley Water District, the Colorado River Board of California, the Imperial Irrigation District, Los Angeles Department of Water and Power, the Palo Verde Irrigation District, the San Diego County Water Authority, the Southern California Edison Company, the Southern California Public Power Authority, and The Metropolitan Water District of Southern California;

Nevada: The Basic Water Company, the Colorado River Commission of Nevada, the Nevada Department of Wildlife, and the Southern Nevada Water Authority.

Federal Parties participating in the LCR MSCP, but not permitted under section 10 include:

Reclamation, the Service, the National Park Service, the Bureau of Indian Affairs, the Bureau of Land Management, and the Western Area Power Administration.

F-2 The Permittees and Reclamation have entered into a FMA that provides for the sharing of the costs of the HCP. Each Permittee's share of the annual HCP costs shall be determined and paid in accordance with sections 8 and 9 of the FMA. The Service finds that the Permittees' compliance with the FMA will ensure that adequate funding for the HCP will be provided.

State Bond Funds: California state bond funds will be utilized for land acquisition in the program planning area by the Wildlife Conservation Board (WCB) and the Department of Fish and Game (DFG) to make California state lands available to the Program for restoration and conservation. DFG has completed a Conceptual Area Protection Plan (CAPP), required by the WCB for acquisitions, in the Palo Verde Valley. As projects are selected in line with the CAPP, funds will be awarded through the WCB.

Proposition 84 Overview: The Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006 (Proposition 84) authorizes \$5.388 billion in general obligation bonds to fund safe drinking water, water quality and supply, flood control, waterway and natural resource protection, water pollution and contamination control, state and local park improvements, public access to natural resources, and water conservation efforts.

Federal / State Grant Funding

What: Cooperative Endangered Species Conservation Fund (Section 6 of the Endangered Species Act), FWS partnership with states in conserving and recovering threatened and endangered species throughout. Grant awards support state efforts to build and strengthen important cost-effective conservation partnerships with local groups and private landowners to benefit wildlife.

The FWS awarded approximately \$81 million in Federal funding in FY 2007 under four grant programs

- Habitat Conservation Planning Assistance Grants Program (provides grants to States and Territories to support the development of Habitat Conservation Plans, through funding of baseline surveys and inventories, document preparation, outreach, and similar planning activities.)
- Habitat Conservation Plan Land Acquisition Grants Program
- Recovery Land Acquisition Grants Program (provides funds to States and Territories to acquire habitat for endangered and threatened species in approved recovery plans)
- Conservation Grants (\$9.9 M) provide financial assistance to States and Territories to implement conservation projects for listed species and at-risk species. Funded activities include habitat restoration, species status surveys, public education and outreach, captive propagation and reintroduction, nesting surveys, genetic studies, and development of management plans.

Examples of 2007 recipients of land acquisition funds:

Coachella Valley Fringe-toed Lizard HCP (Riverside County, CA): \$1,542,000. The grant will contribute to the acquisition and conservation of habitat for the federally listed Coachella Valley fringe-toed lizard. The 480-acre acquisition will protect the sand source and occupied habitat that are integral to the survival and recovery of the species. The acquisition will also complement existing protected areas for the lizard.

San Diego County Multiple Species Conservation Plan (San Diego County, CA): \$23,103,592. The grant will aid in the acquisition of 8,000 acres of land, benefiting numerous federally listed species, including the coastal California gnatcatcher, arroyo toad, San Diego fairy shrimp and Stephens' kangaroo rat. This acquisition will complement the County of San Diego MSCP's reserve design by securing key regional wildlife linkages and preserving core areas of habitat.

San Joaquin Multi-Species HCP (San Joaquin County, CA): \$7,000,000. This project will acquire 2,000 acres of ecologically valuable habitat for federally listed species, including San Joaquin kit fox, California red-legged frog, three vernal pool shrimp species, and numerous sensitive species. The parcels are part the largest contiguous annual grassland remaining in the area, and contain more alkali grassland, alkali wetland, and vernal pools than does any other portion of San Joaquin County or adjacent East Contra Costa County. The land will play a pivotal role in securing a northwest-southeast movement corridor for the endangered San Joaquin kit fox, and protect habitat of regional importance for the threatened California red-legged frog.

Montana

Native Fish HCP: Blackfoot Easement Project (Lewis & Clark County, MT): \$3,887,375. The Blackfoot watershed provides crucial connectivity for many imperiled wildlife species including native bull trout, west slope cutthroat trout and mountain whitefish. Intrinsic to this system as well are the imperiled grizzly bear, gray wolf, Canada lynx, trumpeter swan, bald eagle, and Columbian sharp-tailed grouse. The lands proposed for conservation easement acquisition are adjacent to National Forest and State lands and fill a critical void in maintaining the unfragmented landscape.

Balcones Canyonlands Preserve, Purcell Tract (Travis County, TX): \$5,742,500. This project in partnership with Travis County will protect 17.6 acres of habitat within the Balcones Canyonlands Preserve that is vital for conservation of five endangered karst species and three karst species of concern. The tract surrounds entrances to three caves containing endangered karst species, including Bone Cave harvestman, Tooth Cave ground beetle, Tooth Cave spider, Tooth Cave pseudoscorpion, and Kretschmarr Cave mold beetle. These karst species cannot be recovered without protection of these features. The acquisition will also benefit two endangered songbirds, the golden-cheeked warbler and black-capped vireo. This tract is adjacent to preserve lands already owned by Travis County; therefore, fee title purchase of this tract by the County will provide important connectivity with existing protected lands.

Plum Creek HCP – I-90 Wildlife Corridor, Phase III – Keechelus Ridge (Kittitas County, WA): \$4,191,500. The Keechelus Ridge acquisition will acquire up to 670 acres along Interstate Highway 90, near Snoqualmie Pass, Washington. The acquisition will prevent development; protect habitat for northern spotted owl, marbled murrelet, gray wolf, grizzly bear, Canada lynx, and bull trout; and contribute to improved habitat connectivity between the north and south Cascade Mountains for another 160 species including bald eagle, wolverine, marten, and Pacific giant salamander.

States with the highest amounts granted in 2008 (announced by Secretary of Interior Dick Kempthorne in March):

- California (\$17,945,231)
 - City of San Diego MSCP: \$4.9 M for 230 acres.
 - East Contra Costs County HCP: \$6 M for 2,000 acres.
 - Santa Cuz County: \$1.7 M for 64 acres.
- Montana (\$6,515,319)
 - Native Fish HCP: \$6.5 M for 34,000 acres.
- Texas (\$6,324,500)
 - Balcones Canyonlands Preserve: \$5.2 M. for 6.8 acres.
- Washington (\$8,435,081)
 - Plum Creek HCP \$7 M for >6,000 acres.

From the City of Scottsdale web page on Description of Bonds:

<http://www.scottsdaleaz.gov/finance/bondsb.asp>

The Scottsdale Preserve Authority (SPA) is a non-profit corporation formed in February 1997 for the purpose of acquiring land for the McDowell Sonoran Preserve. The SPA is governed by a board of directors consisting of citizens appointed subject to the approval of the Scottsdale City Council. SPA bonds are secured by lease payments which are, in turn, secured by the city's 0.2% transaction privilege sales and use tax which was approved by voters in May 1995 for the duration of 30 years. These bonds may be issued without a vote by the citizens.