



**TOWN OF MARANA HABITAT CONSERVATION PLAN  
STAKEHOLDER WORKING GROUP  
TUESDAY, NOVEMBER 23, 2010, 1-3 PM  
MARANA OPERATIONS CENTER, 5100 W. INA RD.**

**MEETING MINUTES**

**Attendees:** Tim Bolton, AZ State Land Dept.; Larry Kreis, Red Point Development; Colby Henley, Recon Environmental; Matt Clark, Defenders of Wildlife; Scott Richardson, USFWS; Jennifer Christelman and Janine Spencer, Town of Marana.

**Unable to Attend:** Paul Green, Tucson Audubon Society; Paul Popelka, Oro Valley; Dennis Abbate, AZGFD; Carolyn Campbell, Coalition for Sonoran Desert Protection; David Godlewski, Southern AZ Home Builders Assoc.

**Members of the Public Present:** Sarah Kennedy; John Kennedy, Sky Ranch Residents

**July Meeting Minutes**

No corrections or additions were requested. The minutes will be posted on the Marana website.

**State Land Update**

Kevin Kish, Jennifer Christelman, and Janine Spencer, from Marana; and Sherry Barrett, Scott Richardson, and Steve Spangle, USFWS met with State Land staff at their Phoenix office on Oct. 27<sup>th</sup>. Scott provided an overview of the HCP process and the current listing status of some of the covered species. Jennifer presented information specifically related to the Marana HCP. State Land staff had several questions and said they would meet internally to discuss whether or how State Land would like to be involved in the Marana HCP. Jennifer and Scott stressed that Marana is willing to work with State Land on the details of future development areas, development densities, and percent set-asides to mold a plan that will be beneficial for both State Land and the Town.

Scott reported that AZ State Land requested a conference call with the USFWS for next week. Tim Bolton said that the Department is continuing to discuss the HCP internally and is deciding on a strategy.

Marana is hoping to schedule another meeting with State Land for January to follow up from our previous meeting. Jennifer suggested that State Land might want to develop some questions or concerns for inclusion as agenda items. Tim agreed that this would be a good approach to keep the process moving, and he will check with his Department and send Marana some agenda items. Tim said that State Land has plenty of people in-house to deal with planning and mapping. Janine Spencer mentioned that as an exercise, she and Jennifer figured the number of residences at one house per acre for Zones 2 and 3 on State Land, and then tried different configurations to condense the development

into areas where infrastructure is more readily available, and the numbers worked. If State Land and the Town agree on conservation zones and percent disturbance in areas, the HCP maps may be altered, but any revised maps will be presented to the TBT and then the SWG for review.

### **Marana 2010 General Plan**

The Planning Department is currently working on revisions to the General Plan, to incorporate public comments, and is writing the Plan Administration and Implementation Actions sections of the plan. There were two public meetings on Nov. 10<sup>th</sup> and Nov. 17<sup>th</sup>. The General Plan is going through a major rewrite instead of just an update, and it still has to go to a public hearing, which will provide additional opportunities for public input. The Plan will be presented to the Town Council in March and will go to the voters on the May ballot in 2011.

Matt reiterated that the environmental community still opposes inclusion in the General Plan of the Lambert Lane extension cutting through the HCP wildlife corridor. Eventually a traffic evaluation study will need to be completed for I-10 interchanges in the Town to evaluate the need for a Lambert Lane connection at the freeway.

### **HCP Riparian Mitigation**

Questions arose regarding the parcels that are entirely encompassed within mapped riparian habitat, and how to avoid “take” of private property, so Marana staff met with a subset of the TBT who have experience in the area of working with landowners on riparian mitigation. Only landowners requesting a rezoning or specific plan could trigger compliance with HCP requirements. The sub-group suggested that off-site mitigation areas could be identified for restoration, such as the Barnett Channel, Continental Ranch drainage channels, and the old borrow pit. Matt Clark objected to including Continental Ranch drainage channels as potential mitigation sites since they are not suitable habitat for species covered in the HCP. Tim suggested that the Town could provide incentives for developers to stay out of the washes. Scott stated that whatever guidelines are developed should be clear and consistent. The TBT subgroup recommended that the riparian map be used as guidance to determine which areas are most important to set aside as undisturbed open space, and to evaluate which washes will remain continuous and should be prioritized for preservation for habitat connectivity. They also recommended that this map not be included in the General Plan as it will need to be updated more frequently than the General Plan will.

Larry Kreis followed up with a question on whether the Town plans on updating the riparian map periodically, since riparian areas can move over time. Jennifer agreed that the map will be updated as needed, and said this is one reason for including the riparian map in the General Plan by reference only, so it will be less cumbersome to revise as the need arises. Some of the SWG members have opposed this idea at previous meetings. Revisions to the riparian map should be included under Changed Circumstances in the HCP, to say that riparian areas may move and it won't require renegotiating the HCP unless the map is significantly altered. Scott said that hopefully the Town will be looking at connectivity and not just on-site washes, to avoid impacting downstream properties and habitat. The next TBT meeting is scheduled for December 8<sup>th</sup>, and the riparian mitigation issue will be revisited with the entire TBT group. Matt requested that information be sent out to the SWG prior to the January meeting to allow review time and to facilitate discussion at the next SWG meeting.

## **FEMA Conditional Letters of Map Revision (CLOMRs) - compliance with the Endangered Species Act**

FEMA sent a letter stating that CLOMRs, which are submitted to FEMA prior to construction in the floodplain to evaluate whether the proposed project would meet National Flood Insurance Program requirements, must document compliance with the ESA. FEMA has not proposed to consult with the USFWS; instead they stated that project proponents should individually consult. According to Scott Richardson, the USFWS stance is that Section 7 consultations on the ESA can only occur between Federal entities and not with private individuals. The USFWS is sending project proponent requests for consultation back to FEMA. Scott said that the USFWS has formed a committee at the national level to work on a response to FEMA. On the Tortolita Fan, the endangered lesser long-nosed bat may trigger consultations with the USFWS over CLOMRs. If the process stays as FEMA has currently proposed, coverage of private developers under the Marana HCP will be valuable for them to avoid individual consultations.

### **Other Items**

Tim stated that State Land remains concerned that HOAs can't reasonably be expected to oversee huge natural undisturbed open space (NUOS) areas on the Tortolita Fan. John Kennedy asked what the State does now to manage their land and Tim replied that they mainly depend on grazing permittees for oversight. Scott suggested that the Town look into how much it costs currently to manage the Tortolita Preserve which the Town leases, to give us an idea what NUOS management may cost.

Matt requested that the Town check back through the ideas from past meeting minutes for incentives for setting aside open space and incorporate those that are feasible into the HCP. Larry suggested that the Town could provide a reduction in fees as an incentive to developers to set aside additional open space. Jennifer said that may be difficult because we don't have a property tax and the sales tax is already pretty high. One possibility is that Marana could take a measure to the voters for an open space bond. Scott suggested that the Town figure the acreage that will need to be mitigated on the Tortolita Fan and then apply for an HCP land acquisition grant to buy additional open space (but the Federal funds could not be counted as mitigation in the HCP – the acquisition would have to be in addition to mitigation requirements.) Jennifer said that the Town has spoken with ASLD about mitigation banking on State Land located in the wildlife corridor, but there would be substantial up-front costs to set up the bank.

Matt also stressed that the intent of the HCP for species protection should not be lost among the efforts to make the HCP inclusive for developers. Jennifer assured Matt that the main intent of the HCP is for habitat protection, but that to be workable it has to be beneficial to all parties involved. Scott added that the intent of the HCP is not recovery of species, but mitigation for impacts to species or their habitat. Tim said that the Marana HCP is a test-case for AZ State Land Department, to determine whether the HCP can meet both the needs of State Land and the Town.

Janine reported that the impacts have been reduced by approximately 885 acres, by evaluating the need for bank protection and reducing bank protection acreage where it is not necessary. Previously the Town had included the entire stretch of river to be bank protected in the future, to be conservative. The Town also re-evaluated the amount of disturbance due to new road construction and road widening, by subtracting out the existing paved areas from the impact calculations. Previously the Town had just included all area between right-of-ways, including existing pavement. Some capital improvement projects have been completed prior to the HCP finalization and those were also deleted from impact

calculations. Scott said that the Town will probably need to go through the Federal Register process again because of the map revisions and depending on revisions that come from negotiations with State Land, even though the impacts will be less than previously reported.

The Town has been meeting internally with departments to update the projects that are expected to occur within the next 25 years (the life of the Marana HCP) and will be including a water projects map in the HCP, which was not included in the 2009 HCP version. The Marana Environmental Engineering Department is recommending that mitigation for water treatment plants be on-site wetland habitat built into the recharge basins, similar to those at the Gilbert Water Ranch. Gilbert facility operators said they don't have much of a problem with mosquitoes because they drain basins and fill others on a regular schedule. Invasive species would need to be monitored and treated. The Town should look into the AZ Water Protection Fund to see whether funds are available for riparian restoration or acquisition. Scott encouraged the Town to consider committing to releasing treated effluent into the Santa Cruz River as a mitigation measure.

Jennifer said that the HCP document should be revised and completed by early next year and be ready to go public by July 1, 2011; the Town's fiscal new year. The cut-off date for revising proposed project lists or impacts is December 31, 2010. Scott added that the USFWS will be working on the EIS and Implementing Agreement concurrently with finalization of the HCP to reduce the time required for permit issuance.

Scott gave an update on some of the HCP-covered species that have been petitioned for listing. The USFWS is getting closer to finalizing a large settlement for a variety of species, including the cactus ferruginous pygmy-owl. The settlement should provide a date for publishing the decision on whether or not to re-list the owl. Larry questioned whether the requirement for two years of surveys will be revisited, but Scott said that requirement will probably remain, although there may be some changes in the survey protocol to make the process less expensive. The pygmy-owl could potentially be re-listed in about two years. A decision on the Sonoran desert tortoise will probably be released after December of this year.

#### **The Town of Marana Will:**

- Janine will look back through old meeting minutes to compile possible incentives for NUOS set asides that have previously been suggested.
- Janine will email information that comes from the next TBT meeting scheduled for December 8<sup>th</sup>, on riparian mitigation recommendations, prior to the January SWG meeting.
- Janine will look into whether the AZ Water Protection Fund is still providing grant monies for riparian projects or land acquisition.
- Jennifer will look into the cost for maintaining the existing 2400 acre Tortolita Preserve.

#### **SWG Members Will:**

- Tim will speak with State Land staff and send Jennifer a list of questions and issues for inclusion as agenda items for the next meeting between ASLD and the Town.

#### **Next Meeting:**

January 28, 2011 (No December meeting)