

# UPPER SANTA ANA RIVER WASH LAND MANAGEMENT AND HABITAT CONSERVATION PLAN TASK FORCE

MINUTES  
DECEMBER 10, 2019

## **MEMBERS PRESENT**

Jon Timmer, Chairman  
Daniel Cozad  
Betsy Miller  
David Cosgrove (via teleconference)  
Victoria Hernandez  
Kim Freeburn  
Christine Jones  
Dennis Barton  
Larry Mainez  
Ernie Wong  
Cecilia Griego  
Richard De La Rosa  
Michael Fam  
Ryan Isom  
Bob Chavez  
Michelle Derry  
Robert Chavez  
Doug Headrick  
Heather Dyer  
Kai Palenscar  
David Raley  
Karin Cleary-Rose

## **REPRESENTING**

City of Highland  
SBV Water Conservation District  
SBV Water Conservation District  
SBV Water Conservation District  
BLM  
CDFW  
CEMEX  
City of Highland  
City of Highland  
City of Highland  
City of Redlands  
Robertson's Ready Mix  
SB County Flood Control District  
SB County Parks  
SB County Parks  
SB County Public Works  
SB County Regional Parks  
SBV Municipal Water District  
SBV Municipal Water District  
SBV Municipal Water District  
SBVWCD and SBVCT  
US Fish & Wildlife Service (USFWS)

## **OTHERS IN ATTENDANCE**

Mikael Romich	Origins Biology
Lynn Boshart	Save Lytle Creek Wash
Jane Hunt	Save Lytle Creek Wash
Lorraine Bueno	SB County EMD
Angie Quiroga	SBV Water Conservation District

### 1. **CALL MEETING TO ORDER/PLEDGE OF ALLEGIANCE**

The Upper Santa Ana River Wash Land Management and Habitat Conservation Plan Task Force meeting was called to order by Chairman Jon Timmer at 9:33 a.m. in the offices of the San Bernardino Valley Water Conservation District, 1630 W. Redlands Boulevard, Suite A, Redlands, California.

## 2. SELF-INTRODUCTIONS

Those present introduced themselves.

## 3. PUBLIC COMMENT

Chairman Timmer asked if there were any items that anyone wished to address that were not on the agenda. Jane Hunt inquired about a letter she received regarding the Notice of Availability of the Draft Environmental Impact Statement (EIS)/Supplemental Environmental Impact Report (EIR) for the Upper Santa Ana River Wash Habitat Conservation Plan (HCP). Daniel Cozad explained one of the elements of the Wash Plan was to prepare an HCP. This HCP requires an EIS and supplemental EIR for the Federal government's NEPA process and California's CEQA process. The document can be viewed on the District's website. A copy is also available at the District's front desk. The basic conservation strategy is no different than it has been for at least the last five years. Discussion ensued.

## 4. PROGRESS REPORT ON WASH PLAN HCP

Mr. Cozad introduced Betsy Miller, SBVWCD's new Assistant General Manager/Land Resources Manager who replaced Jeff Beehler upon his retirement. Ms. Miller gave a brief background of her former employment and work. Ms. Miller provided a slide presentation. She stated a great deal of progress on the Wash Plan HCP has been made in the last couple of months. In September, our HCP application and final EIR/EIS were submitted to USFWS. In November, our Board approved the District/BLM Land Exchange MOU. The Department of Interior (DOI) had their Secretarial Briefing to review the EIR/EIS and HCP document, which was approved. At this point, the CEPA Notice of Completion was submitted to the State Clearinghouse. On Friday, December 6<sup>th</sup>, our CEQA 45-day public comment period began. On Dec 9<sup>th</sup>, the Wash Plan was published in the Federal Register which began our NEPA 45-day public comment period. The comment periods will end January 23<sup>rd</sup>. As comments come in, responses will be prepared as quickly as possible. Mr. Cozad advised the new administration had a number of changes they wanted to make within the DOI including shortening the length of NEPA documents and completion timeline. Since this change came after our NEPA documents were assembled, a waiver was requested by USFWS on behalf of the Wash Plan, and was approved. The DOI gave USFWS a year from last December to finish. That means a Record of Decision (ROD) must be completed by the end of this month. Due to the government shutdown, that deadline was extended one month. With the document in the Federal Register on a 45 day review process, the extended deadline to January 31<sup>st</sup> will not be met either since comments are due only 7 days before the deadline. An extension to the waiver will have to be requested. There is some pressure on BLM and USFWS to get this completed but we expect an extension will be approved. Victoria Hernandez addressed other needed approvals. BLM is waiting on signature of the environmental site assessments report for the land exchange. Once received, the appraisal will be requested which generally takes 6-8 months to complete. The completed appraisal then goes back to the state office and to Washington. Estimated completion is one year. Mr. Cozad reminded the Task Force that the land exchange is separate from the HCP so the HCP can move forward prior to the land transfer. After the 45-day comment period, and all comments have been addressed, the HCP will be finalized through the Federal Register. There will be a Biological Opinion, a ROD and an

incidental take permit (ITP) issued. We estimate this to be completed in Spring/early Summer 2020. Those projects that are waiting for their permits through the HCP will then be able to progress. Some projects that are going on ahead of the ITP have Section 7 consultations due to potential loss of project funding or deadline requirements. This report was received and filed.

## 5. CDFW PERMITTING ALTERNATIVES

Ms. Miller reviewed state permitting options as provided in the slide presentation. She explained the Wash Plan HCP covers permitting under the Federal Endangered Species Act (FESA). All remaining federal and state permitting requirements are the responsibility of the Task Force members. The District discovered an opportunity for an umbrella permit through CDFW that would address all covered activities within the HCP related to the California Endangered Species Act (CESA), as well as an umbrella option for the Lake and Streambed Alteration (LSA) agreements. Ms. Miller requested feedback on whether or not the partner agencies would be interested in utilizing an umbrella-type permit approach for state permitting for any of the covered projects. A fairly complete project design is needed to be able to incorporate projects into an umbrella permit. Permit options, cost ranges and time estimates were provided. Kim Freeburn and Karin Cleary-Rose discussed state and federal permitting requirements. Ms. Freeburn stated there will be some flexibility under this umbrella for both the CESA and LSA permits. She explained a Consistency Determination (CD) is difficult to obtain and may be denied with the requirement to submit for full permitting, resulting in time delays and cost increases. Thus, Ms. Freeburn advised against trying to obtain a CD. Ms. Cleary-Rose explained that the Federal statute does not provide take for plants, which is provided from the state, resulting in the inability to utilize a CD and the need for the state to process a separate permit. The Task Force will need to decide rather quickly if they want to move forward with the CD so it can coincide with the BO. Ms. Miller clarified that not all partners or even all projects have to be included in this umbrella permit. Heather Dyer asked and Ms. Freeburn confirmed that there is potential risk to find new mitigation if a project is not built for at least ten years since an individual 2081 permit does not give long term insurances like the HCP does. If the intention is to complete mitigation prior to identifying and permitting your project through the state, then that would be considered advanced mitigation. She indicated setting up a mitigation bank in which mitigation value is established, allowing for use of credits by entities as they implement projects. Another alternative is to complete the NCCP process for longer-term coverage. Otherwise individual project impacts have to be identified so the associated mitigation can be identified. One of the benefits of the umbrella permit is that each partner has something to offer. By providing the permit as a package, with all impacts and mitigation presented together, it allows for everyone to benefit from what another partner may provide. Task Force members voiced their concerns regarding long-term mitigation coverage and additional expenses. Mr. Cozad advised that when the consultants were hired, they were directed to propose to mitigate all projects to meet the fully mitigate State standard. The State has not evaluated whether our projects met that standard. We are about to enter this BO and evaluation process. Ms. Freeburn stated CDFW has not completed their in-depth review yet but from her preliminary review, she did not see any red flags that would imply significantly more mitigation acres needed. Mr. Cozad believes there may be a diversity of state permitting processes as the HCP has seen because some projects must move forward in the short-term. Some partners may need individual 2081 permits. Those that can do

participate in the umbrella permit may benefit from it. He stated we are committed to the idea to manage this preserve in the best interest of the species, including overall environmental improvement of the area. Discussion ensued.

Ms. Miller continued on with her presentation and provided a rough estimate, for discussion purposes, of the different entities, the types of project impacts, and the associated state permit fees noting additional application, development costs and possible survey expenses are not included in these fees. CDFW will make the actual determination of each project impact which will affect the fees. If all 63 of the HCP covered activities/projects get individual permits, the estimated cost is \$866,977. The umbrella permit is estimated at \$42,588. Fee schedules were handed out. Ms. Miller reviewed several different options for Streambed Alteration Agreement (SAA) permits. Estimated fees and option descriptions were presented. \$419,723 is the estimated cost to obtain Individual SAA permits for the estimated 36 Wash Plan covered activities that will need one and \$330,091 for a Master SAA permit. Estimated breakdown of fees per agency were also provided. Mr. Cozad stated there is more research and work to be done if the Task Force wants to do something other than individual 2081 permits for each of your projects. Economically, there is potential to want to work toward a group permit. Ms. Freeburn mentioned previously that combining the projects into a group for permitting makes the analysis easier and closer to a Consistency Determination than reviewing the projects individually. District staff is requesting each Task Force member decide by mid-January how they would like to move forward and advise of which projects they feel would not fit into an umbrella permit due to permit timing or other reasons. Questions will be emailed out for response. City of Highland showed interest in the umbrella process. Christine Jones and Heather Dyer showed concerns of enough mitigation being available for their future projects that need separate permits and interest in pursuing a Natural Communities Conservation Plan (NCCP) for long term coverage. Discussion ensued.

Mr. Cozad summarized that the Task Force members would like District Staff to continue looking at and working on group permitting for their state permit, gathering additional information from the Task Force members through emailed questions, working closely with CDFW for guidance on the most efficient, cost-effective way of getting through the regulatory process, and then providing feedback to the Task Force as to what an umbrella permit would look like with this information as far as cost and timing.

## 6. CERTIFICATE OF INCLUSION PROCESS OVERVIEW

Ms. Miller provided an overview of the Certificate of Inclusion (COI) process. She stated given that we are close to completion with the HCP Federal process of obtaining our documents and Federal take permit, we want to make the permit available to the Conservation District and to our partner agencies as soon as possible through the COI process. A how-to-apply guide and COI application were handed out. Feedback was requested on the provided materials. Mr. Cozad thanked the City of Highland for moving one of their projects through the process early. He advised the partners that the information requested in the COI is needed months before their take authority is given. So,

when they are looking through the design of their projects, determining the consultants they are going to be hiring to do their biology, they should be touching base with Ms. Miller to be sure their avoidance and minimization measures are in place. Ms. Miller thanked Karin Cleary-Rose for all of her help getting the Wash Plan document into the Federal Register yesterday. Mr. Cozad also gave credit to John Robles, the NEPA coordinator for USFWS in Sacramento, for his assistance in shortening the NEPA document and making needed changes to comply with the Secretary's wishes.

7. ADOPTION OF MEETING MINUTES (05/01/2018) (Added agenda item)

**It was moved by John Timmer and seconded by Christine Jones to adopt the meeting minutes of May 01, 2018. The motion carried unanimously.**

8. Adjourn

The meeting adjourned at 11:22 A.M.