

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

MINUTES
May 8, 2015

PRESENT

Governing Committee

Jon Harrison, Chair
John Timmer
Karin Cleary-Rose
Christine Goeyvarts
Christine Jones
John Kalish
David E. Raley

Technical Committee

Brandon Anderson
Heather Dyer
Geary Hund
David Lovell
Ernie Wong
Jeff Beehler
Daniel B. Cozad

OTHERS IN ATTENDANCE

Dick Corneille
Scott Fleury
Ruth Villalobos
Sarah Wright
Angie Quiroga
Charles Roberts
Dan Silver
David Cosgrove

REPRESENTING

City of Redlands
City of Highland
US Fish & Wildlife Service (FWS)
Robertson's Ready Mix
CEMEX
BLM (Via teleconference)
SBV Water Conservation District

Bureau of Land Management
SBV Municipal Water District
US Fish & Wildlife Service (FWS)
SBC Flood Control District
City of Highland
SBV Water Conservation District
SBV Water Conservation District

REPRESENTING

SBV Water Conservation District
ICF
RVA Consulting
Office of Congressman Pete Aguilar
SBV Water Conservation District
Highland Community News
EHL (Via teleconference)
SBV Water Conservation District

1. **CALL MEETING TO ORDER**

The Upper Santa Ana River Wash Land Management and Habitat Conservation Plan Task Force meeting was called to order by Chairman Jon Harrison at 2:00 p.m. in the offices of the San Bernardino Valley Water Conservation District, 1630 West Redlands Boulevard, Suite A, Redlands, California.

2. **SELF-INTRODUCTIONS**

Those present introduced themselves.

3. PUBLIC COMMENT

Chairman Harrison asked if there were any items that anyone wished to address that were not on the agenda. Hearing none, the meeting preceded with the published agenda items.

4. WASH PLAN HCP:UPDATE

Jeff Beehler updated those in attendance on progress toward implementing the Wash Plan. The Habitat Conservation Plan (HCP) document is in process which must be completed in order to complete an EIR/EIS. Work is being done on the Implementing Agreement (IA) which will clarify SBVWCD's relationship with US Fish & Wildlife (FWS) and the project partners' relationship with SBVWCD as the permit holder. The financial agreement for the perpetual care of land we are conserving and the outline of how this will be done will need to be discussed. When the HCP is done, we will have a completed and adopted EIR/EIS which puts the whole package together. FWS's biological opinion based on those documents will become the take permit. Jeff requested members to make sure EIR/EIS is technically correct for their projects and to perform a policy overview. Members need to be sure there is enough information for their agency to move forward with specific permits they will need and to review it with that in mind.

Scott Fleury stated the plan provided in October has been streamlined and made easier to follow. Conservation areas are more defined as well as how they are going to be managed and monitored. The strategy addresses key site specific needs and yearly costs to determine endowment fund. Scott provided slide of HCP screen check and noted comprehensive executive summary of entire plan is new. Phasing of WP has been divided into three (3) phases due to several factors including timing of the land transfer. The first phase is the conservation of everything we have control of and can implement now which will cover approximately the first 10 years of plan. In Phase 2, assuming the land transfer is approved by Congress, any additional impacts and conservation can be implemented. Jeff noted this is only an example of time frames and plan can be accelerated if needed by the Task Force members. However, FWS has to look at HCP as if land transfer didn't happen as part of their analysis and also look at the project with the land transfer completed. Discussion ensued. Daniel Cozad explained the division in phases allows the resource agencies to see that Phase One is a stand-alone, implementable project which is a requirement to get the HCP approved. Since Congress won't act on the land transfer without analyzing the plan, we are providing the HCP in two separate scenarios so we can get the entire Wash Plan accomplished. Scott explained some areas of the plan need to have the years clarified so that is why there are timeframes. We are trying to thread legal requirements and help manage people's cash flow. No one is necessarily tied to a certain phase as long as we show a clear, logical, scientifically based plan that will secure land and mitigation before take occurs and we continue to keep that balance of credit to take per Scott. Jeff added the phases do not tie anyone to a schedule, they just allow you to get started from day one if your agency is ready. The plan is set up to accommodate all covered activities as soon as the HCP is implemented except for the second phase of mining which is contingent upon the land transfer. Your obligation to mitigate and fund the endowment, however, must be complete before you can construct. To clarify, David

Cosgrove stated we need the land exchange to free up the full extent of the mining but we don't need the land exchange to clear the remaining covered activities because we already control the degree of conservation needed for those activities.

David Raley asked if the HCP process has to start over again after 30 years. Karin Cleary-Rose explained if renewal was to cover ongoing O&M, the HCP would be in a perpetual stewardship mode. Obtaining the renewed permit will be much simpler and easier. Scott continued explaining the plan: area was slightly expanded, covered species are the same, covered activities have minor updates and changes, and the conservation program was organized and simplified with more detail. He provided a breakdown of costs estimated by a PAAR analysis of the nearly \$400,000 per year funds needed to implement the HCP. Jeff reminded partners of the jump start process in which we will do some conservation right away to immediately cover the activities such as regular O & M that are already occurring. The jump start also provides some assurances to FWS that conservation will occur every year. Geary Hund noted yearly costs are estimated and can rise a bit but is not expecting them to go up dramatically. Jeff requested the Task Force present the HCP document to the FWS so they can review the technical parts and determine how we comply with the Endangered Species Act. They can provide us feedback so that we can get the document approved. Scott noted the plan needs to be monitored and managed in perpetuity. Based on an average annual return of 4%, a \$10 million endowment is needed to continue yearly funding.

It was moved by John Timmer and seconded by Christine Jones to direct Staff to provide a Task Force Review Draft of the HCP to the Federal and State agency partners for comment. The motion carried unanimously.

5. WASH PLAN EIR/EIS

Jeff stated we also need to do the environmental analysis of the HCP which has started. We've had the formal NOP-Notice of Preparation/NOI-Notice of Intent per Ruth Villalobos, two formal scoping meetings, and a field tour. Seven comment letters were received from the public mostly regarding habitat conservation. As a result of the noticed meetings, we had another workshop regarding habitat going into greater detail using the geodatabase. Ruth provided information on the next steps: completion of environmental documents. The consultants are currently working on the EIS/ supplemental EIR (SEIR) to the original EIR. The Task Force never completed the initial EIS. A near-complete EIS/SEIR document as an administrative draft should be to the three lead agencies by May 18th. She expects timely response and comments on it. She has noted questions and comments of the partners today in order to capture those elements regarding the HCP phases in the document. They are making revisions to what was done previously such as updating ten year old data and changed boundaries. Jeff noted the southern boundary was extended to include the SAR trail. Geary Hund stated the cultural part of the document is a whole other element that is fairly significant. Cultural resources need to be addressed under CEQA and NEPA but also the federal agencies' action in issuing the permit and

executing the land transfer will trigger a consultation. They will be looking for completeness and updated data. It is worth the investment to have a comprehensive cultural resources survey done that is up to date. Jeff stated the Notice of Availability of the environmental documents for public review is the next public process phase and we are aiming for the end of June. Ruth added the third purpose of the EIR/EIS is the amendment to the South Coast Resource Management Plan, a BLM driven document. It addresses and describes what happens when the Wash Plan is implemented and some of the ACEC pieces come out and other areas go into it.

6. WASH PLAN HCP: COST ALLOCATION MODEL

Daniel Cozad presented the current draft Cost Allocation model. He reminded partners based on current models the yearly costs were estimated at \$400,000. Exact modeled costs came in at \$388,738. The seven year jumpstart and the \$10 million endowment needed at 4% interest are previously approved items and have not changed. The Task Force agreed to use the Certificate of Inclusion approach and ensure there is a fair allocation of costs based on land use acres of covered activities, covered species impacts and categories and contributions of land. We also agreed if a partner's endowment is not paid in first year, then they must add in the interest the endowment fund would have received to their payment to make the endowment whole. Daniel presented and will provide copies of two proposals to split costs by land in acres or by species impacts (attached). Primary driver to mitigate is covered species so a heavy emphasis is on species impacts, 85%, and 15% for land. He explained breakdown of how each entities endowment contribution was calculated. Daniel stated it is biologically incorrect, but financially reasonable as a basis for each partner's overall share of the project. The breakdowns demonstrate if all entities pay their part, then we can afford to maintain the Wash Plan in perpetuity as required by FWS. The second proposal has options related to land contributions. In this scenario, credit for land is less and includes covered activities to be named at a later time. However, there is some double counting of acreage for the land that benefits more than one species. The difficulty with this is we don't have needed information to analyze these activities so, large impacts are assumed which drives costs. This also means you will have to negotiate independently with FWS for new activities. Karin stated this scenario offers some attractiveness by recognizing there is a possible future need and holding a space for it but it adds weakness to the plan due to the unknown. She suggests voting against possible future projects being added into breakdown of costs. Karin explained process of how you should build a solid HCP without unknowns and then in the future easily add on to it with new projects that are not thought of yet. Discussion ensued. Heather Dyer added that FWS is already under scrutiny so if we have unknown future projects that end up having any holes in the analysis when they finally come to fruition could severely put the brakes on all projects. Daniel stated a decision does not need to be made today. Each entities staff will be met with individually to discuss scenarios. There are overlying benefits to many entities and we are trying to provide the fairest value to everyone. If there are better ideas or ways, we will look at them. He does feel the 15%/85% breakdown of costs is pretty accurate and we should stay roughly within this range. Discussion ensued. The consensus was to focus on the first scenario and not try to cover unknown future projects. Daniel requested

partners to provide as soon as possible any needed information to him before he gets their breakdown cost page together. He also suggested each entity should put in their upcoming fiscal year budgets at least a percentage of their entities' costs shown if they plan on beginning their projects soon after plan approval or 60-90 days prior to project start.

7. LEGISLATIVE UPDATE

Jeff stated the legislation is in progress. It will be sponsored by Congressman Cook and Congressman Aguilar. They will send it to the appropriate committee. There is one caveat in the legislation and that is there is an additional parcel that is not contemplated in the legislation. That description of the property is being checked by an engineer. When the legislation moves out of committee, this parcel will be accommodated.

8. IMPLEMENTING AGREEMENT/MOU

Taken Out of Order.

Jeff explained two draft sections of the HCP, the Implementing Agreement (IA) and the Memorandum of Understanding (MOU), are currently in development and being worked on. David Cosgrove explained the two agreements. He stated if the HCP is the specific plan then the IA is the development agreement. It will list the Water Conservation District as the Permittee and FWS as Permitter. It will define our obligations with respect to what we need to do and what FWS duties are in terms of enforcement. The IA will be very specific and also include funding insurances, monitoring obligations, and a dispute resolution clause. The MOU will define how we interact and effectively administer the Task Force members as a group, the sequence of covered activities and how we will implement them. It will identify all participants, define how new participants can be brought in or how we can phase out original partners if they wish to withdraw from the plan while still guaranteeing the remaining partners can continue their covered activities. The most important aspect of the MOU are the Certificates of Inclusion which each partner is to obtain when they meet HCP conditions. We want to be sure that we are able to match conservation to the level of disturbance and that the entity sponsoring the activity has lived up to their conservation commitment whether it be land or financial before the activity moves forward. We should have drafts of the agreements by the next meeting since we now have all activities described and the funding is more defined.

9. NEXT MEETING

Late June

10. ADJOURN

Meeting adjourned at 4:12 P.M.

Scenario 1

**SBVMWD Wash Plan
Endowment With Land Credited to Endowment Cost**

DRAFT

Habitat Maintenance Costs

Jump Start addition (7 years)	\$	33,000	7	\$	231,000
Annual Cost for Management	\$	388,768	30	\$	11,663,034.38
Total Cost				\$	11,894,034

	85%	15%		
Entity	Species Impact	Land Impact *	Total Cost	Land Buy-in
Conservation District	\$ 687,120	\$ (584,163)	\$ 102,958	
East Valley Water District	\$ 62,850	\$ 30,149	\$ 92,999	
SB Flood	\$ 489,975	\$ (162,778)	\$ 327,197	CREDITS
City of Highland	\$ 126,686	\$ 70,585	\$ 197,271	
City of Redlands	\$ 236,039	\$ (213,688)	\$ 22,351	
Robertson's and Cemex	\$ 6,972,522	\$ 807,743	\$ 7,780,265	
Valley District	\$ 1,079,579	\$ 399,651	\$ 1,479,230	\$ 625,000
Total	\$ 9,654,770	\$ 347,500	\$ 10,002,270	

* Land Impact is net of contribution and impact unless credit is used elsewhere each land Contributor is different

Total Endowment All payments	\$	10,002,270
Cap Rate with inflation 4%	\$	400,091
Total of 30 year 30	\$	12,002,724

Scenario 2

SBVMWD Wash Plan

Endowment With Land Used as OUTSIDE Credit

DRAFT

Habitat Maintenance Costs

Jump Start addition (7 years)	\$	33,000	7	\$	231,000			
Annual Cost for Management	\$	388,768	30	\$	11,663,034	Per Acre	Additional	% Funded
Total Cost			2298	\$ 11,894,034	\$	5,176	\$ 67,289	101%
Total with 13 acres			2311	\$ 11,961,324		\$ 7,410		106%

	85%	15%					
Entity	Species Impact	Land Impact *	Total Cost	Land Buy-in	Land Offset cost	Delta	
Conservation District	\$ 664,376	\$ (584,956)	\$ 79,421		\$ 102,958	\$ (23,537)	
East Valley Water District	\$ 60,769	\$ 29,942	\$ 90,712		\$ 92,999	\$ (2,287)	
SB Flood	\$ 473,756	\$ 86,625	\$ 560,381	CREDITS	\$ 327,197	\$ 233,184	
City of Highland	\$ 202,065	\$ 173,704	\$ 375,769		\$ 197,271	\$ 178,498	
City of Redlands	\$ 469,396	\$ 19,338	\$ 488,734		\$ 22,351	\$ 466,383	
Robertson's and Cemex	\$ 6,741,729	\$ 800,931	\$ 7,542,659		\$ 7,780,265	\$ (237,606)	
Valley District	\$ 1,043,845	\$ 396,916	\$ 1,440,760	\$ 625,000	\$ 1,479,230	\$ (38,470)	
Total	\$ 9,655,936	\$ 922,500	\$ 10,578,436				

* Land Impact is net of contribution and impact unless credit is used elsewhere each land Contributor is different

Total Endowment	All payments	\$ 10,578,436	\$	19,000,000
Cap Rate with inflation	4%	\$ 423,137	2%	\$ 380,000
Total of 30 year	30	\$ 12,694,124	\$	11,400,000