

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

MINUTES  
September 8, 2015

**PRESENT**

Governing Committee

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

Technical Committee

Brandon Anderson  
Daniel B. Cozad  
Bob Dalquest  
Kim Freeburn  
AJ Gerber  
Tom Holliman  
Geary Hund  
Lawrence Mainez  
Kevin White  
Ernie Wong

**OTHERS IN ATTENDANCE**

Dick Corneille  
David Cosgrove  
Scott Fleury  
Sonya Hooker  
Tom McGill  
Cheryl Nabahe  
Angie Quiroga  
Charles Roberts  
Ruth Villalobos

**REPRESENTING**

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

Bureau of Land Management  
SBVWCD (District)  
City of Redlands  
CA Dept. of Fish & Wildlife  
SBC Regional Parks  
East Valley Water District  
US Fish & Wildlife Service (FWS)  
City of Highland  
County of San Bernardino  
City of Highland

**REPRESENTING**

SBVWCD (District)  
SBVWCD (District)  
ICF (Via teleconference)  
Ruth Villalobos & Associates (RVA)  
RBF Consulting  
Bureau of Land Management  
SBV Water Conservation District  
Highland Community News  
Ruth Villalobos & Associates (RVA)

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 1:34 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. ADOPTION OF MEETING MINUTES (3/4/2015 & 5/8/2015)

**It was moved by David Raley and seconded by Christine Jones to adopt the meeting minutes of March 4, 2015 and May 8, 2015. The motion carried unanimously with John Timmer abstaining from the vote for the March 4, 2015 minutes due to his absence at the meeting.**

4. 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.

5. WASH PLAN HCP: UPDATE

Daniel Cozad provided a review of the components necessary to complete the HCP. FWS has reviewed the draft HCP and provided comments. Karin Cleary-Rose stated FWS did not find any major holes in the plan. After District responds and incorporates FWS comments into HCP, FWS will submit draft HCP to Federal solicitor and region before making final adjustments. Solicitor has blocked Oct 1<sup>st</sup> -18<sup>th</sup> to review the plan. Task Force comments on Implementing Agreement (IA) and adjustments are needed in by September 18, 2015 to submit meet the solicitor deadline. Kim Freeburn of CDFW has some concern about spineflower take. A couple of extra steps may be needed to meet the fully mitigated State standard. She suggested it may be internally resolved with the Wash Plan implementing group and spineflower working group. Daniel explained as part of the Endangered Species Act (ESA) you must avoid and minimize take prior to taking an action that results in take of a listed species. Jeff Beehler, Geary Hund and consultants have spent time adding detail in the HCP to avoidance and minimization measures to make sure that ESA compliance standards are met.

Ruth Villalobos stated the administrative draft EIS/Supplemental EIR document went to the water conservation district and both Federal agencies in May. Consultants went through every resource category for all nine covered activities and the EIS now covers more than expected. She stated when members provide the EIR/EIS to their legal counsel/boards they may find sufficient coverage to move forward with the project absent

additional analysis. As a separate alternative requested by the Federal Partners, the project described in the EIR that was certified in 2008 previously known as Plan B, will be added. The Cultural resources report was received and sent out to the agencies for review. These were the last two outstanding pieces needed for completion of the document. The additional alternatives and responses to comments (awaiting comments from FWS) will be wrapped up into a document and sent up the chain of command for the Federal agencies in November. Getting comments back and incorporated has taken a little longer than anticipated. Daniel stated adequately describing parcels for the land exchange also caused delays. Our Nov 30<sup>th</sup> target is now to have the document leave the local Federal office to D.C. for inclusion in the Federal register.

Daniel explained third component of the HCP package: Implementing Agreement (IA). With District listed as permittee and remaining Task Force members included with a Certificate of Inclusion (COI), the package must also contain a Memorandum of Understanding (MOU). David Cosgrove provided a slide presentation and explained the IA and MOU are agreements with the permitting agencies and among all Task Force members as to how the plan will be implemented, responsibilities of the parties, processes followed to be sure permit conditions are complied with, and various protections that we have and give to each other. David requested contact info for all legal reviewers for the IA and MOU so that he may communicate directly with them and get comments back by Sept 28<sup>th</sup>. The IA is between District and FWS incorporating the HCP and all of its terms.

Due to the scope of the project, the implementation of the projects will be phased. Jump start funding of \$231,000 is needed to be sure mitigation process begins immediately. Each party who has a covered activity will file an application with District for COI when their activity is ready to start and their mitigation has been paid in dollars, land or both. District is responsible for making sure we meet jump start requirements when permit is issued, forming, collecting, and managing non-wasting mitigation endowment to sustain permanent mitigation activity, making sure everyone taking advantage of the permit is bound contractually by way of land transfer or otherwise. Each agency/activity will be addressed on an individual basis. Details of the IA and discussion ensued. It was noted that the District will need to be sure all parties are complying with the permit, but FWS reserves all enforcement rights including civil and criminal penalties.

The MOU is between the District and Task Force members. District will oversee COI process, manage endowment, administer COI, and implement land exchange with BLM. Task force member's responsibilities will be to obtain COI giving District enough documentation to say what the covered activity is and show how what is being proposed is consistent with what was analyzed and the level of mitigation assigned and to comply with the permit. Obtaining the COI will be a two-step process: 1). Initial consistency determination, and; 2). Issuance of the COI. Karin explained this is a 30 year permit. It provides the institutional steps that we refer to as the base documents. The State of California will be issuing a permit as well. An amount of take has been quantified to obtain the permit for projects listed in the Wash Plan. If additional take is needed by a new project, this will not take away from the original projects obligation. The new

projects will have to add an amendment to the HCP. Depending on the change, you may have to modify the CEQA document and possibly your 2081 State permit as well. Discussion ensued. Karin suggested the FWS be added into the COI process as a reviewer of submitted activities prior to issuance of the COI. Ernie Wong expressed concerns that if a project doesn't start for 10 years there would not be sufficient documentation to support their project in the future. Karin and Geary Hund assured him that what each agency has provided thus far regarding their projects is included in the HCP, NEPA and CEQA documents and in the GIS database. Karin reiterated that it is each agency's responsibility to be sure their project(s) are sufficiently defined with extreme detail and are defensible. Daniel stated obtaining the COI will be roughly a 60 day process from beginning to end. The avoidance and minimization requirements will be listed with conditions and requirements so each agency can adopt them and not have to create their own. It will be reviewed by the regulatory agencies and can be modified. Geary Hund added the COI issuance is a very streamlined expedited process.

David stated with the number of projects ready to move forward with the issuance of the permit we should receive the \$231,000 needed for the jump start. If we don't, there is a provision to require all parties to provide a proportionate contribution to reach the designated amount. District is looking for input on the set-up of the endowment fund. Options include creating a District enterprise fund, a non-profit corporation or a joint powers agency where we would possibly join with another resource conservation agency. The District is committed to making sure we develop an investment plan with transparency in options and strategies with an annual report of cash flow and a biannual audit. David explained and requested input from the Task Force regarding the violation process, resolution mechanism and attorney's fees clause written in the MOU. Jon Harrison asked if the District does not obtain the 4% proposed return on the endowment will the member agencies be required to pay additional funds. Daniel explained the District is taking the responsibility to acquire the 4% and they would not ask for more funds. A contingency amount is listed in the management budget annually. Daniel provided a slide on and explained District needs. One need is for someone else to provide and hold a conservation easement. The second need is an investment management strategy for the endowment. Districts are limited to only fixed income investments (1-2%) due to government code §53601. Other endowments are earning 4-8%. We need to figure out who will hold title or easement, who will have fiduciary responsibility and what yield we can expect. The District is currently looking at three options: 1). A Non-Profit Trust 501(c); 2). A Section 115 Trust Instrument like OPEB which is not limited to fixed income and can earn 7 ¾%, or; 3). JPA with the District and Inland Empire Resources Conservation District (IERCD) in which IERCD would have the authority to hold the conservation easement. We are looking for an optimal solution and are open to comments. Discussion ensued.

## 6. WASH PLAN Land Transfer

Brandon Anderson stated with more certainty in the HCP, legal descriptions of parcels to be exchanged have been agreed upon and are going through BLM's internal review. A

new feasibility report will amend the original done in 2008 and will go through their Washington office review. Upon acceptance, a notice of exchange proposal will be published in the local newspaper. An additional parcel of BLM land was added which requires a modification to the mineral potential report which will be done internally. Once feasibility report is approved by Washington office, appraisal phase will begin. Brandon stated he is hoping feasibility report will be reviewed by the end of next week. Appraisal usually takes a month or two depending on staff availability but can run concurrently with EIR/EIS. David mentioned this is the second time the appraisal will be done due to changes but the base work has already been done. Daniel stated bills sponsored by Representative Aguilar and Cook will be introduced this month to facilitate the land transfer eliminating the Congressional 1908 reservation. We have tried to keep the bill simple and clean to get it through. . Daniel added that the HCP document will be approved by this point and it more specifically states the phasing of the mining compared to last time.

#### 7. Next Steps for Plan Completion and Submission for Administrative Review

Daniel discussed the trails plan that District has been working on. It was Board approved and requirements were coordinated with FWS. An RFP was created for the second phase of the trails plan for consultant assistance on crossings and compliance of public access. We have to confirm that by letting people in we are not harming the very qualities we are trying to preserve. Karin made note that we must be sure the people we are allowing to have access are actively managed. FWS proposed no recreational access until there is an adopted trails management plan with a funding source to pay rangers to enforce the rules. There is no take for trails in this HCP and the trails must be managed so they do not result in take.

Daniel requested approval from the Task Force for \$1,000 to be contributed to the HCP Coalition for their coordination contract and limited lobbying efforts. The coalition is working on straightening out things like endowment fund investing that are worthwhile on behalf of the HCP. No opposition received. He reminded members the urgency in having their legal counsel review the IA and MOU and get comments back by September 23<sup>rd</sup> so all documents can be provided to the solicitor by the end of September. If this deadline is missed, it will set the project back 3-4 weeks or more. It is a stretch goal but it is the only way to get the three documents out and to the Federal Register in our goal timeline. After the solicitor's review, those comments and the other documents go to Washington. We want our documents in the queue for the Federal Register by the end of November which starts the 90 day public review process. Discussion ensued.

Daniel encouraged members to attend the Riverside Land Conservancy's Pride of Place event in which Jon Harrison will be honored for his work and the work of the Task Force. Karin asked for clarification on the appraisal timeline. Brandon estimated the appraisal process will begin mid-October and it takes 4-6 months. Karin noted the appraisal process needs to be done and the EIR/EIS record of decision (ROD) completed before the NEPA document can be finalized/adopted which is what is needed to provide the permit.

8. Schedule Next Meeting

Next meeting scheduled for Tuesday, October 13, 2015 at 1:30 p.m.

9. ADJOURN

Meeting adjourned at 3:35 P.M.