



desert conservation

P R O G R A M

respect, protect and enjoy our desert!

Community Advisory Committee

Regional Transportation Commission Building, Room 108
600 South Grand Central Parkway, Las Vegas, Nevada 89155

Draft Meeting Summary for December 10, 2009



Meeting Summary

Community Advisory Committee Meeting 11, December 10, 2009, 2:30 p.m.

Regional Transportation Commission Building, Room 108

The following pages contain a summary of the presentations and discussions from the Desert Conservation Program (DCP) Community Advisory Committee (CAC) Meeting of December 10, 2009. These pages, together with the presentation slides and handouts, constitute the meeting record.

Meeting 11 Agenda

1. Opening and Introductions
2. Approval of Meeting Notes from the November 2009 CAC Meeting
3. CAC Recommendation on Covered Species
4. Public Comment
5. Meeting Wrap Up and Closing

Appendix A - Meeting 11 Agenda

Appendix B - CAC Recommendation on Covered Species

Appendix C - Covered Species Presentation

Appendix D - Revised Species Matrix

Appendix E - Public Comment from Julene Haworth

1. Opening and Introductions

Ruth Nicholson, Lead Facilitator, opened the meeting at 2:33 p.m. and noted that a quorum was present. Paul Larsen, Business/Small Business, participated via telephone. Ruth invited the public to sign-in and indicate if they were interested in making public comment. Following the introductions, Ruth reviewed the agenda with the committee.

2. Approval of Meeting Notes from the November 2009 CAC Meeting – Action Item

Ruth asked the committee if it had any comments, questions or suggested clarifications for the November 2009 CAC meeting notes. Mindy Unger-Wadkins, City of Henderson, commented that the meeting notes summarized the comments of Rob Mrowka, a member of the public representing the Center for Biological Diversity, as "...he also appreciated Mindy's support of conservation and mitigation in the HCP leading to delisting of species as that is directly opposite of what Marci and County staff have been pushing." Mindy



wanted to clarify that the portion of the comment mentioning Marci and County staff had not been made by her. Doug Huston, Meeting Documentation, stated that he would revise the November CAC summary to make that clear. Given this clarification, the committee accepted the November summary by consensus.

3. CAC Recommendation on Covered Species – Action Item

Based on the feedback provided by the committee in November, the facilitation team presented a draft recommendation on covered species for consideration and discussion. She pointed out that at the November meeting there were still questions and concerns about the inclusion of plants in the covered species list and Sonja Kokos, DCP Staff Biologist, would discuss the regulation of plants from Endangered Species Act (ESA) and state perspectives in more detail.

Sonja discussed the evolution of the covered species list and issues surrounding the possible inclusion of plants in the amended HCP. At the November meeting, staff proposed that 24 species be covered, including nine species that required additional evaluation. She stated that at this time, two of the nine species that were under evaluation had been dropped, the rest had been added to the covered species list. Two plant species that were previously on the list (sticky ringstem and Parish's phacelia) had been removed, and two new bird species (Bendire's thrasher and LeConte's thrasher) had been added to the list. The relict leopard frog remained on the current version of the covered species list as a placeholder until candidate conservation agreements for the frog can be developed with the U.S. Fish and Wildlife Service (FWS) to protect private landowners since various agencies are considering introducing these frogs onto private land.

Sonja reminded the committee that take of federally listed plants is not prohibited on non-federal land. However, Section 7 of the ESA may prevent issuance of a take permit in general based on threats to plants that could jeopardize their continued existence. In addition, the permit issuance criteria in Section 10 of the ESA prohibit issuance of a take permit if it would threaten the continued existence of wildlife or plant populations. She explained that the state requires a permit to take or disturb state-listed plants or their habitat. She pointed out that the plants on the proposed covered species list are either state endangered or being recommended for listing by botanists throughout Nevada.

Paul asked if the Pahrump Valley buckwheat was genetically distinct from the Las Vegas buckwheat or does it just have a different geographic name. Sonja replied that they are different species. Paul asked if the Pahrump Valley buckwheat is geographically limited to the Las Vegas and Pahrump valleys. Sonja explained that known habitat in Clark County was limited to private land in Sandy Valley. Ruth asked Paul if that answered his question. Paul replied that he was trying to determine if these buckwheat species are geographically confined to the Las Vegas valley. Sonja replied that the Las Vegas Valley buckwheat is



not confined just to the Las Vegas Valley and that the Pahrump Valley buckwheat is not confined just to Pahrump. It occurs along the whole Spring Mountain deposit but it as a very narrow habitat.

Sonja reviewed Nevada Revised Statute (NRS) 527.270 with the committee. This statute prevents removal or destruction of any species threatened with extinction except under a special permit issued by the Nevada Department of Forestry. She commented that the Permittees intend to include plants on the covered species list only if it provides compliance with Nevada state law.

Jim Rathbun, Education, asked what the umbrella species for the list of plants was, if any. Sonja replied that it was the desert tortoise. Jim asked if any of the plants could be covered under the umbrella of the tortoise. Sonja stated that all the plants fall under the desert tortoise umbrella. Ruth asked if the group understood the difference between state and federal coverage of species. There were no comments or questions. Ruth informed Paul that Sonja's presentation was being e-mailed to him at that moment. She invited the committee to move on to working on the covered species recommendation.

Eric Hawkins, Co-Facilitator, reviewed the committee's guiding principles for covered species:

1. Guiding Principle 2: The list of covered species should focus on those most likely to be impacted by take within the MSHCP boundary.
2. Guiding Principle 3: Conserving and protecting species and habitats should be based on the best scientific knowledge available.

He reminded the group of a potential third principle which was brought forward in a conversation several meetings back:

- A process is needed to address FWS listing and priorities for species.

Eric asked the committee if this final principle was still needed. Mindy commented that she did not think it was needed any more as the questions on status had been addressed. John pointed out that input from FWS had been built into the current species list. Mindy commented that the scientific basis of the list covers this concern. This principle was removed from the list.

Eric then reviewed the draft recommendation on covered species:

After reviewing and discussing the covered species evaluation process and options, the committee finds the following criteria (used by the Permittees) to determine which species should be covered by the amended MSHCP to be acceptable:

- *Species occur within Clark County*
- *Includes federal or state listed/candidate species*
- *All covered species will be subject to direct take*



- *Species analysis based on the best available scientific information*
- *Includes only those unlisted species that will overlap with listed species (umbrella species)*
- *Includes only those unlisted species that are likely to be listed in the future*
- *Includes plant species*

We conclude this based on the fact that the process used to develop these items was logical, scientifically sound and consistent with the committee's guiding principles on covered species.

Ruth pointed out that the bullet, "Includes plant species," was emphasized on the handout due to the fact that some committee members had expressed reservations about including plants during the previous meeting. She asked the group if this recommendation reflected what it would like to say on covered species.

Mindy commented that she had spent some time reviewing the proposed covered species list and looking at the plants. She stated that she understood that plants were being included to provide compliance with state processes. She stated that, from a Permittee's perspective, this makes things easier and simpler. Given this, she would recommend including the plants. Jim commented that he thought he remembered John stating that this permit would be based on two ecosystems. John stated that there were two major ecosystems in the area that would most likely be impacted, Mojave Desert scrub and salt desert scrub; this is basically the open valley floor. There will be impacts in other areas such as riparian areas, primarily along the Virgin River and the Muddy River in the Moapa, Logandale, and Mesquite areas. Jim commented that he thought John had said there were two ecosystems in which the majority of the impacts would occur. John replied that it was true that the majority of the take would occur in the Mojave Desert scrub and salt desert scrub ecosystems. Jim replied that if that was the case then including the plants made a lot of sense as those ecosystems are based on the plants that are available.

Mindy commented that she was still worried that the number of items on the list will drain money away from efforts for the desert tortoise and other critical species. She commented that when the committee began discussing mitigation and its cost, it needed to keep that in mind. Ruth added that the development of recommendations was an iterative process and that all the recommendations would be reviewed in the context of the entire package.

Allison Stephens, City of North Las Vegas, asked what the additional cost would be for those species that fall under the umbrella species concept. John replied that species would need to be evaluated on a case by case basis. He stated that staff's assessment was that there might be some additional cost, but overall the additional cost to add any individual species would be marginal. He commented that if those additional costs turn out to be substantial, the covered species list may need to be reevaluated for inclusion.



Jane Feldman, Environment/Conservation, asked why two birds had been added to the list. John clarified that two birds also came off the list and explained that the birds that were added share similar habitat to the desert tortoise. The added bird species have been identified by local and Southern California ornithologists as species of concern.

Brian Nix, Boulder City, asked whether species that thrive in other areas of the country would be considered endangered in Clark County. John replied that it depended on the species status range-wide. He commented that the Mojave Desert tortoise range extends across four different states and if it is listed in one of those states, that listing would apply anywhere that species is known to occur. Brian asked if that meant it could be listed here even if it were plentiful. John replied yes, unless the FWS decides that only the local population is affected. The FWS usually does not do that unless the populations are genetically distinct.

Brian asked if inclusion of the plants expands liability with respect to future development. Does this expand the scope of what has to be protected? John replied no. He reminded the committee that if you cover an unlisted species in the permit you are required to treat it as if it were listed. Thus, if it becomes listed in the future, you are already covered. Brian followed up by asking if a freeze affected the Pahrump Valley buckwheat, would a lot of resources have to be shifted to that since it was found in such a limited area. John reviewed the permit concept of "*changed circumstances*" with the committee. The Permittees are required to anticipate possible future events and plan actions and activities that will be taken and performed should those events come to pass. He commented that climate change was an important part of that planning process and would be an element of the changed circumstances analysis. John commented that a freeze might fall under the category of "*unforeseen circumstances*." Under those conditions, there is no requirement to spend additional dollars. The Permittees may agree to shift focus and address the problem, but there is no requirement to do so.

Scot Rutledge, Environment/Conservation, commented that the committee is disadvantaged by not having climate scientists on it, but it was making decisions about people's livelihoods and needed to recognize and take seriously the fact that things are changing. John agreed that climate change was a serious subject and commented that it will be a large part of the changed circumstances analysis. Brian stated that he was concerned that species with a limited range could result in having to shift a lot of resources as a result of single events.

Marci Henson, DCP Plan Administrator, commented that it could happen. She stated a more likely scenario might be a fire. The response would be to determine how to restore damaged, critical habitat to functioning habitat as soon as possible. She did not feel significant resources would have to be shifted due to the umbrella species concept. Terry Murphy, Developer/Homebuilder, stated that she understood Brian's point to be that the committee needed to consider that maybe umbrella species needed to be covered, but not species that occupy very narrow habitats. She reminded the committee that its function was not to perform the mission of the FWS and other agencies with regard to conservation but to secure and maintain an incidental take permit primarily for desert tortoise.



Mindy asked if the only place the Pahrump Valley buckwheat existed is the Sandy Valley. Sonja replied that the current predictive habitat model shows that it exists in just that area and a little farther north, but that model is being revised. Mike Ford, City of Mesquite, commented that this is the historic debate that has been occurring for a number of years. He stated that possibly the plan could limit the amount of funds that would go to a species experiencing a catastrophic event to ensure that the majority of funding remains focused on the highest priority species. Mindy asked if this could be part of the mitigation strategy. Mike commented that theoretically, if you go back to the original 600 or so conservation actions, you should have started with the highest priority actions and worked your way through them.

Marci commented that she thought the changed circumstances concept allowed for that scenario. She used fire as an example. It is reasonable to assume that a fire which damages critical habitat will occur. You then plan what you will do in that event. She commented that a lot has been learned since the previous HCP. She stated that these details will be discussed as part of the conservation strategy, and if it turns out that one species is going to cost an inordinate amount of money, the Permittees may come back to the committee with a revised covered species list.

Allison asked if the committee's recommendation could contain language that limiting the effects of species with narrow habitats. Marci clarified that people were concerned that very specific actions would be taken for a very limited area, and this would not benefit other species. Jane commented that the desert tortoise does occur in the Pahrump Valley buckwheat area. Marci stated that the specific actions might be something like seeding, and if desert tortoises did not eat these seeds or plants, they would not get any benefit from the seeding.

Terry commented that she agreed with Allison. If the permit includes species that occur in very narrow habitats, the language needs to be very clear about these situations. She also stated that the Permittees need to be sure that these species occur on private land, since if they only occur on public land there is no point in covering them in the amended permit. Marci clarified that none of the species in the proposed covered species list occur only on public land.

Ruth commented that looking ahead, there is a potential for putting a recommendation on species with narrow habitats under Guiding Principle 10. She reviewed Guiding Principle 10 with the group:

- Guiding Principle 10: Due to the complexity of the issues addressed by the MSHCP, the plan and permit should contain mechanisms to adapt to environmental, economic and social changes that arise during the permit life.

She explained that a recommendation on this issue could fit under this guiding principle or could be added to the covered species recommendation.



Eric suggested adding a new bullet point to the current covered species recommendation:

- The committee recognizes that additional evaluation of the species list may be needed following the definition of the mitigation activities.

Eric stated that he thought what he heard Allison saying was that as the Permittees figure out what mitigation activities will take place, there may be a need to reevaluate the species list. Allison clarified that she was hearing concern about species with limited ranges, and she thought it was important to state in the committee's recommendation about covered species that if you cover these narrow-habitat species, you need to do some specific actions. She stated she thought it was important to include this point in the covered species recommendation. Mindy commented that this issue relates to Guiding Principle 6:

- The amendment structure should make efficient use of resources and control costs of the program to maximize the permit's value to the community.

She stated that spending on non-priority species does not satisfy this guiding principle.

Eric stated that he thought the committee was now in the same place they were with regards to the take recommendation. He reminded the committee that the goal today was to achieve the first two levels of consensus:

1. I understand it.
2. I can live with it.

John stated that one possibility was that the committee may want to add a point to the recommendation which deals with including some kind of cost-benefit analysis of adding unlisted species to the permit. He mentioned in particular narrow, endemic species. Mindy replied that it was not just the cost-benefit aspect but that there were species that will be more impacted than others, that also needed to be taken into account.

Eric reflected that it sounded like there should be a level of impact and/or a cost-benefit analysis in determining which species to cover. Mindy replied that the prioritization of resources should take into account the level of impact and a cost-benefit analysis. Marci suggested that the recommendation should state that the list's priorities should take into account the listing status of the species; attention should be directed first to listed species, then candidate species and so on. Mindy agreed and added that a cost-benefit analysis should also be done for the species with the lower priorities.

Eric read the proposed new bullet for the covered species recommendation:

- Should include a cost-benefit and consideration of existing listing levels



Mindy stated that, given the added bullet, she did not hear many comments about the list of covered species. She suggested that the committee move on. Eric agreed that it seemed to him the committee had reached the first two levels of consensus.

Mike Ford stated that, for the record, he felt the species list should be narrower than broader. He commented that this particular list had considerably more analysis than previous lists, and he could live with it. He then cautioned that there was a tremendous opportunity for the committee to lose focus on what needs to be the priority.

Brian hoped the umbrella species concept would prevent the list of covered species from expanding. Mike commented that he was totally good with the umbrella species concept until he heard that there was no tie between the Pahrump Valley buckwheat and the desert tortoise. He wanted to know why the Pahrump Valley buckwheat was on the list. Marci replied that the Pahrump Valley buckwheat was added to the covered species list because it might be listed which would then require developers to negotiate a HCP and get a permit to develop on that site.

Mindy commented that during a previous meeting there was a suggestion to cover only the desert tortoise. She stated that there were now three listed species: desert tortoise, southwestern willow flycatcher and Yuma clapper rail. If the covered species list was reduced to these three species she would accept that and that she understood that including additional species, in particular plants, was an attempt to streamline the process of obtaining permits. Brian reminded the committee that if you do not include these species now, you might have to come back and amend the permit later. Mindy understood that the current list was designed to provide coverage for 50 years, and she felt that this was the way to go. Brian agreed given his understanding that including these species under the umbrella species concept would not result in additional or increased fees.

Matt Heinhold, Gaming Industry, commented that if the Pahrump Valley buckwheat was not included on the list, the only people affected would be those developers who want to work in the narrow area occupied by this plant. He stated that listing things like this was how the original list went to 78 species. He questioned having the Pahrump Valley buckwheat on the list if it turned out that in the mitigation discussion it would be too expensive. However, he could support moving forward given that this was an iterative process, and the committee would be looking at this recommendation again.

Mindy asked if spending could be limited to 25% of the budget for species below a certain level priority-wise. Matt commented that could make for problems if the species became endangered. Jane said that her thoughts were very much in line with the rest of the committee's thoughts and she was much more comfortable having a limited species list. She stated that with species having a very narrow range,



mitigation involves things like collecting seeds or setting aside and protecting habitat. She was not sure which method, the HCP or another, was the best method for setting aside habitat for its natural values vs. urban values and that the HCP process was not an easy process, but she understood the need for it from a developer's standpoint. She commented that no matter which method you choose to protect habitat, there will be challenges implementing it.

Patrick Foley, Banking/Finance, stated that a fire could result in enough damage to accelerate the listing of a narrow-range species and could erode the amount of support provided other species on the list. Marcia Turner, Education, asked if the fire scenario would affect just those people who want to develop in that area or would it affect everyone. Matt commented that it would just affect people in that area. Scot asked if the number of acres of Pahrump Valley buckwheat was known. Sonja replied that most of the known Pahrump Valley buckwheat was on private land in Sandy Valley. Terry asked if the landowners in that area were aware of the fact that this plant was present on their land. Matt asked if this plant was covered by the current HCP. Marci replied that the Pahrump Valley buckwheat was covered in the current HCP.

Mike commented that if a developer were to ask his advice to develop in this area, he would advise his client to develop a private HCP. Mindy was surprised that Mike would recommend this. Mike replied that the majority of HCPs in this area are private. Allison commented that, given the idea that the committee will get a chance to look at this recommendation again and that actions will be taken with respect to limited-range species, she was comfortable with the Permittee recommendations and suggested moving on.

Eric read the current version of the committee recommendation on covered species:

After reviewing and discussing the covered species evaluation process and options, the committee finds the following criteria (used by the Permittees) to determine which species should be covered by the amended MSHCP to be acceptable:

- *Species occur within Clark County*
- *Includes federal or state listed/candidate species*
- *All covered species will be subject to direct take*
- *Species analysis based on the best available scientific information*
- *Includes only those unlisted species that will overlap with listed species (umbrella species)*
- *Includes only those unlisted species that are likely to be listed in the future*
- *Includes plant species*

We conclude this based on the fact that the process used to develop these items was logical, scientifically sound and consistent with the committee's guiding principles on



covered species.

The committee recognizes that additional evaluation of the species list may be needed following the definition of mitigation activities.

- *Specific to species with a limited range*
- *Should include a cost/benefit and consideration of existing listing levels*

John suggested changing the phrase "existing levels" to "existing status." Given this change, the committee reached agreement on the following recommendation:

After reviewing and discussing the covered species evaluation process and options, the committee finds the following criteria (used by the Permittees) to determine which species should be covered by the amended MSHCP to be acceptable:

- *Species occur within Clark County*
- *Includes federal or state listed/candidate species*
- *All covered species will be subject to direct take*
- *Species analysis based on the best available scientific information*
- *Includes only those unlisted species that will overlap with listed species (umbrella species)*
- *Includes only those unlisted species that are likely to be listed in the future*
- *Includes plant species*

We conclude this based on the fact that the process used to develop these items was logical, scientifically sound and consistent with the committee's guiding principles on covered species.

The committee recognizes that additional evaluation of the species list may be needed following the definition of mitigation activities.

- *Specific to species with a limited range*
- *Should include a cost/benefit and consideration of existing status*

See also Appendix B for a copy of the committee recommendation.

4. Public Comment

Ruth reviewed the ground rules for public comment with the committee and the public and invited those members of the public who had signed up to comment to speak to the committee.



Julene Haworth, a private citizen, came to the podium and requested five minutes for her remarks. Following a brief discussion, the committee agreed to give all the members of the public who desired to speak five minutes at this meeting since there was time available to do so.

Julene commented that she was an informed citizen and had been a member of Clark County MSHCP advisory committees since 1989. She stated that her expertise was in the area of public lands policy. She had attended the FWS National Training Center in West Virginia and had completed the agency course in habitat conservation planning for endangered species.

She stated that it was at her urging in 2006 that the MSHCP Section 10 permit holders made the decision to amend their permit. She commented that her rationale, expanded on by an issue team subcommittee, was that the current MSHCP of 78 species was burdensome and doing little to protect the only endangered species covered by the permit. The final recommendation was focused on amending the permit so that it could be realistically manageable and fiscally responsible.

One of the challenges this committee faces is to identify an amount of acreage for development activities to occur on. There is no requirement that all federal land identified for eventual disposal/sale be included in a revised acreage amount. She commented that conventional wisdom would indicate that it will be some time, if ever, that the type of growth Clark County has experienced in the past will occur again.

Julene commented that there is only one federally listed species that this amendment to the Section 10 permit must address: the desert tortoise. She asked the committee to note that most of the species have a state protection status. She asked the committee to refer to the covered species list provided to the committee. She commented that the two endangered bird species are covered under the existing HCP which still exists, and she asked if the need still existed to list them on an amended covered species list. She stated that she would come back to amphibians. With respect to mammals, Julene stated there are no federally listed mammals, and it would be fiscally irresponsible to cover any mammals in an amended permit. She stated that there are no federally listed plants, and that it is not the responsibility of DCP under a Section 10 permit to be responsible for or connected to a Nevada state function. She commented that obtaining a state permit is entirely the responsibility of the development proponent.

Getting back to the amphibians, Julene stated that *Rana onca* exists only on federal land and even if it were to be listed, it would not impact development. She commented that if a private landowner chooses to allow this frog on his property, it should be the landowner's responsibility to address the ramifications of this, not DCP.



She asked the committee to be cautious of the following reasons for placing a species on the covered species list:

- It might be listed. She asked the committee to look at the 20-year history of various HCPs in Clark County. There have been no new listings. She stated that if a species were listed, it is not a convoluted process to address that issue.
- Place it on the list as an insurance policy. She stated that this philosophy was followed in listing the current 78 species and this led to an unmanageable plan and the fiscal debauchery in the 2003-04 budgetary cycle.

Julene stated that the committee has taken a huge step by recommending that only species under 4,000 feet elevation be covered and she suggested that its next step be limiting coverage to only those species that are federally listed as threatened or endangered.

She closed her comments by stating that in reading the summary of the November meeting, it was obvious to her that Mr. Mrowka was misinformed regarding the 2002 Conservation of Public Lands Act process and substance, and therefore his comments were incorrect. Julene commented that she would leave a copy of her comments on the back table so that people could read the rest of her comments (Appendix E).

Janet Bair, FWS, commented that as the committee was debating what to include on the species list, the county and FWS were also engaged in the same debate. She thought it might be helpful for the committee to understand what FWS looked at. She stated that first the service would determine if the proposed actions would jeopardize any species that occurs within Clark County whether or not it is listed. She stated that if the proposed actions were determined to jeopardize a plant species for instance, the FWS would not be able to issue the permit unless mitigation was possible. She commented that Mike made some good points about Pahrump Valley buckwheat, the extent to which it occurs on private lands, and the extent to which the County can actually conserve that species. She stated that most of this buckwheat occurs in Nye County. She stated that Clark County needed to be concentrating on private lands that occur in Clark County. Janet stated that 50 years is a long time and cautioned against using the past to determine what will happen in the future. Janet also commented that she thought it might be of interest to the committee to refer back to some of the original MSHCP documents; in particular, the biological opinion. She commented that the biological opinion was a very long and thorough document that lays out species by species what is appropriate to cover. Janet thought it might be helpful to the committee as it continues to debate what should be on the covered species list.



Hermi Hiatt, a private citizen, commented that she had to chuckle over the committee's current discussion of what to include on the covered species list. She stated she remembered the scramble in 1999 when the tortoise was listed and everything came to a stop. She commented that one of her concerns was the blue-diamond cholla. She stated that it was found mostly on public land, but some were found on private land. She suggested that it might be a good idea to include this on the current list.

Rob Mrowka, Center for Biological Diversity, withdrew his request to speak.

Ruth asked if there was anyone else who wanted to speak. There was no response.

5. Meeting Wrap Up and Closing

John stated that the amendment process was complex, and some portions were not ready for discussion yet so the January 14th CAC meeting was being cancelled to allow Clark County more time to work with the biological consultants.

Ann Schreiber, Senior, commented that the committee needed to ask Janet where to get a copy of the biological opinion. Marci commented that it was on the DCP website, and she would e-mail the link to the committee. Mindy informed the committee it was under guiding documents on the website.

Jane informed the committee that the biological opinion could be found by accessing Clark County on the web, then the Department of Air Quality and Environmental Management (DAQEM), then HCP, then guiding documents. That link is: http://www.accessclarkcounty.com/depts/daqem/epd/dcp/Documents/MSHCP_BioOpin.pdf

Mindy asked if there were extra copies of Julene's comments available. Ruth commented that the facilitation team would ensure her comments got into the notes for this meeting. Ruth stated the next CAC meeting was February 18, 2010.

The meeting was adjourned at 4:00 p.m.



Attendance

Committee Members Present	Clark County Staff	Others In Attendance
Jane Feldman, Environmental/Conservation	Marci Henson	Paul Andricopulous
Patrick Foley, Banking/Finance	Sonja Kokos	Janet Bair
Mike Ford, City of Mesquite	Ann Magliere	Ken Freeman
Stan Hardy, Rural Community	John Tennert	Julene Haworth
Matt Heinhold, Gaming Industry		Hermi Hiatt
Paul Larsen, Business/Small Business (phone)		Jeri Krueger
Bill Maher, Union		Rob Mrowka
Terry Murphy, Developer/Homebuilder		Alison Pruett
Bryan Nix, Boulder City		Carolyn Ronning
Joe Pantuso, Developer/Homebuilder		Roddy Shepard
Jim Rathbun, Education		Mark Silverstein
Scot Rutledge, Environmental/Conservation		Cris Tomlinson
Ann Schreiber, Senior		Paul Yadro
Allison Stephens, City of North Las Vegas		Eric Hawkins (Facilitation Team)
Marcia Turner, Education		Doug Huston (Facilitation Team)
Mindy Unger-Wadkins, City of Henderson		Ruth Nicholson (Facilitation Team)



Flipcharts

Notes:

Agenda

1. Opening and Introductions
2. Adopt November CAC Meeting Notes
3. CAC Recommendations On Covered Species
4. Public Comment
5. Wrap Up and Adjourn

Goals

1. To adopt CAC November meeting notes
2. To refine and adopt a CAC recommendation on covered species

Mission

The Desert Conservation Program (DCP) Community Advisory Committee (CAC) will provide recommendations to the Permittees on amendment of the Clark County Multiple Species Habitat Conservation Plan.

Helpful Hints

Future Topics:

- Mitigation
- Implementation Structure
 - Different group to address conflicts of interest
- Other



Flipcharts

Notes:

Next Meeting

February 18, 2010

Notes

- Different species for Las Vegas Valley and Pahrump Valley buckwheat?
 - Yes, not necessarily limited to LV/ Pahrump valleys
- Which are umbrella species?
 - Desert Tortoise
 - Southwestern Willow Flycatcher
 - Yellow-billed Cuckoo
- Selected plant species appear to reduce process and simplify which was one of our goals

Notes

- Majority of species covered will occur within two ecosystems so inclusion of plants becomes important
- Additional consideration of plants may be necessary after we've looked at mitigation
- Since plants are all under umbrella species is there any additional cost?
 - Unknown

Notes

- Why add 4 bird species?
 - Habitat likely to be affected
 - Species of concern here and elsewhere
- If a species is endangered here but plentiful in other areas do they still need to be covered?
 - If a population elsewhere is threatened, could be listed here as well



Flipcharts

Notes:

Notes

- Does inclusion of these species (i.e., additional plants) could it negatively impact our ability to both mitigate and/or develop?
 - Unlikely - instead provides assurances for us
- What about catastrophic events or changes?
 - Some anticipation required in HCP

Notes

- Long-term changes (like climate change) make a 50-year HCP difficult - lot of unknowns in the future
- Umbrella species concept helps with protection (restoration following a catastrophic event)
- May need to identify which of these 22 species occur within a limited area
- Can we quantify/limit \$ that go to protection/mitigation of any one species?

Notes

- Foreseen circumstances is designed to provide protection from spending all \$ to address a catastrophic event
- May need to do a cost/benefit on particular species once mitigation strategy better defined
- Caution/concern that we need to ensure our efforts and funds are focused on the desert tortoise

Notes

- There is value in protection of additional species if it simplifies the development process and the overall plan/implementation
- For species with limited range, property owners should be informed



Flipcharts

Notes:

Rec. Addition

- Committee recognizes that additional evaluation of the species list may be needed following the definition of mitigation activities.
 - Specific to species with limited range
 - Should include cost benefit and consideration of existing status.



desert conservation
PROGRAM
respect, protect and enjoy our desert!

Appendix A
Meeting 11 Agenda



AGENDA

Desert Conservation Program Community Advisory Committee Meeting County Of Clark, State Of Nevada

NOTICE IS HEREBY GIVEN that a meeting of the Desert Conservation Program Community Advisory Committee (CAC) has been called and will be held on Thursday, December 10, 2009, beginning at 2:30 p.m. at the Regional Transportation Commission Building, 600 Grand Central Pkwy, Room 108, Las Vegas, Nevada. Below is an agenda of all items scheduled to be considered. Unless otherwise stated, items may be taken out of the order presented on the agenda.

1. **Opening and Introductions**
2. **Approval of Meeting Notes from the November 2009 CAC meeting - Action Item**
3. **CAC Recommendations on Covered Species - Action Item**
 - Goal:** • To refine and adopt recommendations regarding covered species for an amended MSHCP
4. **Public Comment**

No action may be taken upon a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action will be taken. Speakers are asked to sign in to speak. Speakers are asked to introduce themselves with their name and affiliation, if any, before speaking. Each speaker will be limited to three minutes.
5. **Meeting Wrap Up and Closing**
 - Goals:** • To recap meeting results and identify follow-up activities
 - To outline agenda topics for the next meeting
6. **Adjourn**

continued on next page



desert conservation
PROGRAM
respect, protect and enjoy our desert!

Committee members are asked to remain at the meeting until adjournment so that items requiring action are able to be heard as needed. Reasonable efforts will be made to assist and accommodate physically handicapped persons desiring to attend the meeting. Please call Ann Magliere at (702) 455-3536 in advance so that arrangements may be conveniently made.

MDH:am

Dated: December 3, 2009

The above notice/agenda of a meeting of the Multiple Species Habitat Conservation Plan Desert Conservation Program Advisory Committee scheduled for Thursday, December 10, 2009, at 2:30 p.m. was posted on or before the third working day before the meeting per Open Meeting Law requirements at the following locations:

Clark County Government Center Lobby
Clark County 3rd Street Building Lobby
Clark County Courthouse Annex
Laughlin Community Center
Sahara West Library

Las Vegas Library
Paradise Community Center
Winchester Community Center
Searchlight Community Center



Appendix B

Community Advisory Committee Recommendation on Covered Species

After reviewing and discussing the covered species evaluation process and options, the committee finds the following criteria (used by the Permittees) to determine which species should be covered by the amended MSHCP to be acceptable:

- Species occur within Clark County
- Includes federal or state listed/candidate species
- All covered species will be subject to direct take
- Species analysis based on the best available scientific information
- Includes only those unlisted species that will overlap with listed species (umbrella species)
- Includes only those unlisted species that are likely to be listed in the future
- Includes plant species

We conclude this based on the fact that the process used to develop these items was logical, scientifically sound and consistent with the committee's guiding principles on covered species.

The committee recognizes that additional evaluation of the species list may be needed following the definition of mitigation activities.

- Specific to species with a limited range
- Should include a cost/benefit and consideration of existing status



desert conservation
PROGRAM
respect, protect and enjoy our desert!

Appendix C
Covered Species Presentation



desert conservation PROGRAM
respect, protect and enjoy our desert!

Community Advisory Committee

December 10, 2009



desert conservation PROGRAM
respect, protect and enjoy our desert!

Covered Species

- Updated Recommended Covered Species List
- Covered Species Options
- Covering Plants
 - State and Federal Laws, including NEPA

Common Name	Scientific Name	Conserv. Federal Review	Current State Status
Birds			
Arizona bell's vireo	Vireo bellii		Protected
Brewer's flycatcher	Troglodytes aedon		Protected
Lucoma's flycatcher	Troglodytes lucorum		Protected
Phainopepla	Phainopepla nitens		Protected
Song sparrow	Spizella socialis	Endangered	Endangered
Western tanager-topi	Tanagra californica	Endangered	Protected
Yellow-shafted nuthatch	Sitta carolinensis	Candidate	Sensitive
Yuma sapsucker	Picus occidentalis	Endangered	Endangered
Amphibians			
Desert leopard frog	Rana boylei	Candidate	Protected
Mammals			
Desert kangaroo rat	Dipodomys deserti		
Desert pocket mouse	Perognathus parvulus		Threatened
Spotted tail	Onychomys leucogaster		Sensitive
California long-eared bat	Myotis californicus		Sensitive
Reptiles			
Desert tortoise	Gopherus agassizii	Threatened	Threatened
Spotted tail newt	Pleurodeles waltl		Protected
Vascular Plants			
Pinon (Pahrump Valley) budweiser	Ephedra bifurcata		
Las Vegas budweiser	Ephedra confertiflora		
Las Vegas Valley budweiser	Ephedra confertiflora var. nelsonii	Candidate	Critically Endangered
Rock budweiser	Ephedra viridiflora		Critically Endangered
Threatened milkvetch	Astragalus agassizii		Critically Endangered
Threatened sandcherry	Prunella arbuscula		
Yellow lichen-like beardgrass	Pennisetum fasciata		




desert conservation PROGRAM
respect, protect and enjoy our desert!

Covered Species Options

Table 1. Summary Matrix of Covered Species Options
12/10/2009


Criteria and Assumptions	Desert tortoise only	Listed species only	Permittee recommended without plants	Permittee recommended	Status quo
Species occur within Clark County (Range)	X	X	X	X	X
Includes federal or state listed/candidate species (Status)	X	X	X	X	X
All covered species will be subject to special take permit	X	X	X	X	
Species analysis based on the best available scientific information	X	X	X	X	X
Includes only those listed species that overlap with listed species			X	X	
Includes unlisted species that are likely to become listed in the future			X	X	X
Includes plant species				X	X
Number of species	1	5	7	22	78



desert conservation PROGRAM
respect, protect and enjoy our desert!

Plant Species


- Take of federally listed plants is not prohibited on non-federal land; does not require a federal take permit.
- However, if Section 7 analysis determines that issuing the permit will "jeopardize existence of a plant species", the permit may not be issued.
- Section 10 issuance criteria prohibit issuing a permit that "threatens the continued existence of a wildlife or plant population".



desert conservation PROGRAM
respect, protect and enjoy our desert!

Plant species

- FWS HCP Handbook encourages coordinating state and federal compliance processes.
- Compliance with Nevada law/regulations may require application for a permit to take or disturb protected plants and/or their habitats (ex. Las Vegas bearpoppy).



desert conservation PROGRAM
respect, protect and enjoy our desert!

Plant species

- NRS 527.270 "Any species declared to be threatened with extinction shall be placed on the list of fully protected species, and no member of its kind may be removed or destroyed at any time by any means except under special permit issued by the [Nevada Division of Forestry]."
- Nevada state requirements mirror federal requirements for Section 10
- Permittees propose to include plants only if it provides compliance with Nevada state law.



desert conservation PROGRAM
respect, protect and enjoy our desert!

Plant species

Questions?



desert conservation
PROGRAM
respect, protect and enjoy our desert!

Appendix D
Revised Species List

Species Recommended for Coverage under the Amended MSHCP

-DRAFT 12/10/2009-

Common Name	Scientific Name	Current Federal Status	Current State Status
Birds			
Arizona bell's vireo	<i>Vireo bellii</i>		Protected
Bendire's thrasher	<i>Toxostoma bendirei</i>		
LeConte's thrasher	<i>Toxostoma lecontei</i>		
Phainopepla	<i>Phainopepla nitens</i>		Protected
Southwestern willow flycatcher	<i>Empidonax traillii extimus</i>	Endangered	Endangered
Western burrowing owl	<i>Athene cunicularia hypugea</i>		
Yellow-billed cuckoo	<i>Coccyzus americanus</i>	Candidate	Sensitive
Yuma clapper rail	<i>Rallus longirostrus yumanensis</i>	Endangered	Endangered
Amphibians			
Relict leopard frog	<i>Rana onca</i>	Candidate	Protected
Mammals			
Desert kangaroo rat	<i>Dipodomys deserti</i>		
Desert pocket mouse	<i>Chaetodipus penicillatus sobrinus</i>		
Spotted bat	<i>Euderma maculatum</i>		Threatened
Townsend's big-eared bat	<i>Corynorhinus townsendii pallescens</i>		Sensitive
Reptiles			
Desert tortoise	<i>Gopherus agassizii</i>	Threatened	Threatened
Banded Gila monster	<i>Heloderma suspectum cinctum</i>		Protected
Vascular Plants			
Forked (Pahrump Valley) buckwheat	<i>Eriogonum bifurcatum</i>		
Las Vegas bearpoppy	<i>Arctomecon californica</i>		Critically Endangered
Las Vegas Valley buckwheat	<i>Eriogonum corymbosum</i> var. <i>nilesii</i>	Candidate	
Sticky buckwheat	<i>Eriogonum viscidulum</i>		Critically Endangered
Threecorner milkvetch	<i>Astragalus geyeri</i> var. <i>triquetrus</i>		Critically Endangered
White-margined beardtongue	<i>Penstemon albomarginatus</i>		
Yellow two-tone beardtongue	<i>Penstemon bicolor</i> ssp. <i>Bicolor</i>		



desert conservation
PROGRAM
respect, protect and enjoy our desert!

Appendix E
Public Comment of Julene Haworth

12/10/09 PUBLIC COMMENT
Section 10 Permit Amendment
(Clark County MSHCP)

I am Julene Haworth. I have been a member of or retained involvement in Clark County's HCP citizen's advisory committees since I was first appointed in 1989. My graduate degree and expertise are in Public Policy/Public Lands Policies. I have attended the Fish & Wildlife Service's National Training Center in West Virginia and completed their courses in Habitat Conservation Planning for Endangered Species.

Comments relative to **AMENDING CLARK COUNTY'S SECTION 10 PERMIT:**

It was at my urging in 2006, that the MSHCP Section 10 Permit holders made the decision to amend their permit. My rationale, expanded on by an issue team subcommittee, was that the current MSHCP of 78 species was over burdensome and doing little to protect the only endangered species covered by the permit. The final recommendation was focused on amending the permit so that it could be realistically manageable and fiscally responsible.

One of the challenges this committee faces is to identify an amount of acreage for development activities to occur on. There is no requirement that all federal land identified for eventual disposal/sale be included in a revised acreage amount. Conventional wisdom would indicate that it will be some time – if ever – that the type of growth Clark County has experienced in the past will occur again.

RE: IDENTIFYING SPECIE(S) FOR COVERAGE:

There is only one federally listed species that this amendment to the Section 10 Permit must address: the desert tortoise. Also please note that most of the species have a state protection status. The jurisdiction and responsibility for protection of state listed species lies with the State of Nevada Department of Wildlife.

Birds – The two endangered birds are covered under existing HCPs, does the need still exist to include them on the amended cover list?

Amphibians – I'll come back to this one;

Mammals: There are no federally listed mammals. It would be fiscally irresponsible to cover any mammals in an amendment permit,

Reptiles: Only the tortoise has a federal listing;

Plants: There are no federally listed plants. It is not the responsibility of the DCP under a Section 10 Permit to be responsible for or connected to a Nevada State function.

Obtaining a state permit is entirely the responsibility of the development proponent. It would be irresponsible to cover plants in the amended permit

Back to Amphibians/Rana Onca – This little frog exists ONLY on federal land. Even if it were to be listed there would be NO IMPACT to the DCP/development. It should not be listed as a covered species under the amended permit. Should a federal listing occur, it

will solely be the responsibility of the impacted federal agencies. IF a private landowner wishes to allow the frog to be placed on his property – it should be the responsibility of that land owner to address the ramifications and NOT the DCP!

Please be cautious of the following reasons for placing a particular species on the amended covered list

- *It might be listed.* Look at the 20 year record of the various HCPs in Clark County – there have been NO NEW LISTINGS! IF a listing were to occur, it is not a convoluted process to address that issue. [Where is the expert that can handicap the probability of a federal listing occurring?]
- *Place on permit list as an “insurance policy.”* That fallacy was followed in listing the current 78 species. The argument for and placement of numerous non federally listed species on the covered list as an insurance policy led to an unmanageable plan and the fiscal debauchery exhibited in the 2003-04 budgetary cycle.

Do not add an unnecessary burden to the permit and associated HCP by adding any non federally listed species; it is neither required nor prudent.

This Committee has taken a huge step by recommending that only species occurring at or lower than 4000 feet elevation be considered for take under the amended permit. I would suggest that your next step be to limit species covered under the amended permit to only those that are federally listed as threatened/endangered.

Lastly - In reading the summary of the November meeting, it was obvious to me that Mr. Mrowka was misinformed regarding the 2002 Conservation of Public Lands... Act processes and substance and therefore, during his public comments, he imparted incorrect information to Committee Members. For example:

- Bill had very little input and no NEPA process; *NEPA process is not required – numerous public meetings were held in the Las Vegas valley – Blue Diamond – Searchlight, and Moapa Valley; Meetings were also scheduled with each of the jurisdictional entities.*
- Bill was about closed door sessions between Congress and lobbyists. *There were no closed doors! Environmental & conservation groups, proponents of wilderness, miners, recreational vehicle proponents, hiking & bicyclist groups, local gov't lobbyists – you name the interest group, they were met with.*
- Putting the Upper Las Vegas Wash into the disposal boundary. *The ULVW was identified for disposal by the BLM in the mid 1960s long before any land bills.*

I know these facts because I was the lead Senate staff out of the Washington D.C. office and was intimately involved in processes and drafting the language of the Act. Furthermore, due to my knowledge of the MSHCP “no net loss of habitat” (a condition of the current permit) occurred as a consequence of the expanded disposal boundary included in the 2002 Act.

jhresources@cox.net
702.523.0102