

**SAN LUIS VALLEY REGIONAL HABITAT CONSERVATION PLAN
STEERING COMMITTEE KICK-OFF MEETING
Wednesday March 13, 2013
1:00 P.M.
BUREAU OF RECLAMATION CONFERENCE ROOM
Alamosa, CO 81101**

Present: Doug Clark, RiGHT; Mike Blenden, USFWS; Juan Altamirano, Alamosa County; Suzane Beauchane, USFWS; Jerry Freeman SLVEC; Charlotte Bobiki, Senator Bennett Rep.; Greg Spangler, City of Monte Vista; Kathy Rogers, City of Alamosa; Don Martinez, Conejos County; Bernadette Martinez, Town of Del Norte; Paul Tigan, BLM; Matt Hardesty, DOWR; Karla Shriver, Rio Grande County; Ben Doon, Costilla County; Wendi Maez, Saguache County; Ken Anderson, Saguache County; Marty Asplin, Town of Del Norte; Gregg Gillaspie, USBR, Greg Higel, RGWCD; Kirk Navo, CPW; Terry Ireland, USFWS.

RGWCD: Steve Vandiver, General Manager; Sandra Montoya, RGWCD; Bill Mangle, ERO Consultant; Ron Beane, ERO Consultant.

INTRODUCTION OF GUESTS

Sandra Montoya welcomed all those present and asked everyone to introduce themselves. Steve Vandiver and Terry Ireland introduced Ron Beane and Bill Mangle and presented them with an award of appreciation for their hard work in writing and completing the HCP document.

OVERVIEW OF THE HCP

Bill Mangle gave a presentation on the fundamentals of the HCP. There are two federally protected birds within in the valley, the Southwestern Willow flycatcher and the yellow-billed cuckoo. A Regional HCP was completed in order to be proactive about the ESA regulations with regards to the two federally protected birds. The HCP which resulted in the issuance of Incidental Take Permits (ITP) to each of the participants; the six counties of the San Luis Valley, four municipalities, the State of Colorado and the Rio Grande Water Conservation District (RGWCD), was spearheaded by the RGWCD on behalf of the participants and was primarily funded by State and Federal grants. The USFWS is the agency that is responsible for managing and enforcing ESA regulations and is also responsible for issuing ITP's under an HCP.

This HCP provides protections for a specific set of activities, primarily agriculture and it does not provide protection to new development and construction. Anything that is covered through a Corps of Engineers section 404 permit is not covered under the HCP. This HCP is unique because most HCPs provide coverage for new development and construction; most of the impacts that are covered under this HCP are temporary. At any given time it is estimated that there are about 270 acres of temporary impacts occurring throughout the valley. It is one of the commitments for the ITP holders to provide mitigation credit in order to offset the impacts. In this HCP there are a variety of tools that are available to mitigate the impacts including the use of existing easements. To ensure the mitigation credit is sufficient it is important that habitat monitoring take place on the mitigation lands and on the state and federal lands.

Discussion was held on species monitoring. Mr. Blenden stated monitoring occurs on the refuges every couple of years. Mr. Ireland said the USFWS is supposed to do a status review every five years to assess the number of Southwestern Willow Flycatchers and their habitat. The last comprehensive survey done on State and Federal Lands in the valley was done in 2005. In 2005 there were about 68 territories which is above the recovery goal of 50 territories. There is also a habitat requirement that must be met for the recovery goal; there has to be twice as many acres as would support that number of birds, which the San Luis Valley (Valley) does possess.

Discussion was held on the range of coverage for the Southwestern Willow Flycatcher throughout the Nation and on the existence of other HCP's. The flycatcher is protected by the ESA in seven states and there has been 24 HCPs completed that include the Southwestern Willow Flycatcher as a covered species.

MONITORING PROCESS

Ron Beane gave a presentation on the monitoring process of the HCP. Habitat monitoring will be starting this year and will occur on parcels of land that will count as mitigation credit. State and Federal lands are considered core habitat and will be used as reference sites for the mitigation credit. The mitigation parcels will be monitored every three years and the valley-wide

habitat mapping will occur every ten years. A presence/absence survey will also take place on the mitigation parcels in conjunction with the habitat monitoring. The habitat monitoring will be assessing a variety of habitat quality parameters such as vegetation type, the density and height of the vegetation and others. The monitoring might need tweaking and will require recommendations from the Steering Committee.

Discussion was held on the valley wide concept of tracking impacts and mitigation credit. Impacts were calculated valley wide therefore mitigation credits are accrued valley wide. Mitigation credits only account for impacts that are covered by the scope of the HCP.

Discussion was held on what can and cannot be used for mitigation credit and on monitoring of federal and private land. Lands that are federally owned cannot be used for mitigation credit. Also, lands that were enhanced or are under federal easements using federal dollars cannot count in the pool of mitigation credit. Privately owned lands and easements can count for mitigation with the cooperation of the land owner. This Committee can help benefit the monitoring efforts across the valley by coming up with a single group to handle the monitoring on the Federal, State and Privately owned lands, with the cooperation of the land owner.

PURPOSE OF THE STEERING COMMITTEE

Sandra Montoya gave a presentation on the purpose of the steering committee. The role of the steering committee will be an advisory role to the permittees and provide recommendations to the permittees, primarily the district. The commitments of the steering committee are minimal. It is set up to meet at a minimum of twice a year and it can be a different representative from any given entity at each meeting.

Discussion was held on the habitat locations and how it will affect future development within the counties and municipalities. The key is communication between the HCP coordinator, the USFWS representative; permit holders and stakeholders on these concerns. The determination of habitat can sometimes be a judgment call and should not rest solely on the shoulders of the HCP coordinator. It is at the discretion of the permittees as to how much they want to use the assistance of the HCP coordinator. If there are any uncertainties the Steering Committee Meeting is the place to have these discussions.

QUESTIONS AND DISCUSSION

Sandra Montoya asked if there were any questions and discussion on any of the above mentioned topics. Doug Clark asked if the HCP addresses the relationship of the habitat to the currently decreasing water table. Mr. Mangle said that the HCP does not directly address the issue but it is presumed that the hydrology will always be shifting. Further discussion was held on how ESA regulations address shifting hydrology.

OVERVIEW OF THE CHARTER AND BY-LAWS

An email version of the charter and by-laws will be sent out for the next meeting.

TERRY IRELAND DISCUSSES USFWS ROLE IN THE HCP

The USFWS will receive the annual reports that will be generated by the steering committee. If there are any questions or concerns with the report or anything else related to the HCP the USFWS will address it at the Steering Committee meeting. The USFWS will be ensuring that the permittees are in compliance with the Incidental Take Permits that were issued, help out on technical assistance, look at habitat quality parameters and review the habitat monitoring.

Discussion was held on the number of territories within the SLV for flycatchers. The most consistent surveys have been done on the BLM's MacIntire/Simpson property and their Southwestern Willow Flycatcher population has been relatively stable at about 20 territories. Mr. Clark asked what the incentive for mitigation was if the recovery goal in the SLV has been met. Mr. Mangle responded the HCP process is about mitigating the impacts of the covered activities and not directly about recovery of the federally protected species, but it will help sustain or improve flycatcher habitat, contributing to health and sustainability of the species so that it can hopefully contribute to the recovery of the birds. Regardless of how the whole population is doing, as required by the ITP permittees are still liable and need to mitigate for impacts that are covered under the HCP.

Discussion was held on how to handle grey areas with regard to what is and is not covered under the scope of the HCP. For grey areas call the HCP coordinator as the first point of contact. The ultimate decision maker as to what is and is not covered under the HCP is the USFWS.

Mr. Higel asked if a new diversion from a ditch that borders State land was within 35 feet of a Southwestern Willow flycatcher nest, would be a covered activity under the HCP. Mr. Beane responded, if the diversion would create a permanent impact Mr. Higel would be asked to report it to his respective County Land use office or to the HCP coordinator. Contacting the HCP coordinator would always be a good first step especially to ensure communication to minimize the impacts to the birds. The breeding season for the Southwestern willow flycatcher starts May 15th and last till August 15th, therefore it would be ideal to conduct any impacts outside of breeding season. If the diversion was on Federal land, a consultation with the respective federal agency would have to take place. Discussion was held on river restoration and 404 wetlands permitting.

UPDATE ON MITIGATION

Sandra Montoya updated the Committee on the status of mitigation credit. There are three different conservation easements that are currently being considered for mitigation credit. Two owners have unofficially committed to allow their conservation easements to count for mitigation credit. Currently, Sandra is in the process of completing a mitigation stability form on the first easement. The purpose of the easement stability form is to ensure that the easement meets the requirements of the HCP and to account for the percentage that is federally funded. Mitigation credit can only be accounted for the percentage of total dollar amount that is not federally funded. 270 total acres are needed for mitigation credit and we have three years to accomplish this. The three easements should take care of the 270 acres; however it is always best to line up more than needed. The landowner agreement is an overlay to the existing conservation easement and it is completely voluntary. Any conservation easement holder can back out of the landowner agreement at any point. Discussion was held on tracking impacts for the purposes of mitigation.

CRITICAL HABITAT

Terry Ireland announced that Critical Habitat (CH) has been designated on a few miles along the Conejos and Rio Grande based on the presence of potentially suitable habitat for the flycatcher. CH designation is required for USFWS to help with recovery for the species. In 2005 USFWS used the draft HCP as justification to exclude whole valley from CH designation. Since that time a policy change has taken place that does not allow Federal land to be excluded from CH designation. Therefore, the Alamosa National Wildlife Refuge and BLM lands were included in CH designation. There were five small pieces of BLM land were excluded due to their small size and lack of contribution of habitat. CH only applies to projects with that have a federal nexus (federal properties or federally-funded projects). When the USFWS consults on CH, they consult both on the species itself and designated CH to determine if a project will cause a detriment to the species and/or adverse modification of CH. The threshold for adverse modification is fairly high and it generally takes a large project to get to the adverse modification determination. If it is determined that a project has reached the adverse modification threshold then a biological opinion is needed. The USFWS may ask the Refuge or BLM to provide water for the flycatcher but that would be done using the States adjudication process and would have to abide by the Compact regulations. The USFWS would not, and cannot, force private water users to provide water for any of the protected bird species.

Further discussion was held on when a biological opinion would take place. Not every project results in a biological opinion. In most cases the USFWS will write a concurrence letter. Biological opinions are required only on projects where the impacts created may adversely affect the species. Mr. Vandiver's concerns still remain that there will be some possibility or interest in the Platoro reservoir and the Closed Basin for flows to benefit bird species. Mr. Vandiver hopes to work with USFWS and BLM on the water issues relating to the federally protected birds and to get it resolved in the correct way.

PUBLIC COMMENTS

No one was present from the public.

SCHEDULE OF FUTURE MEETINGS

The next meeting is scheduled for Wednesday June 12th at 1:30 p.m.