

Washington County

Habitat Conservation Plan HCAC Work Session

June 26th

St. George, Utah

**All Content Herein Is
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Change**

HCP Basics

- A Habitat Conservation Plan (HCP) is a document that supports an application for an Incidental Take Permit (ITP) application
- The HCP is the County's document that defines the "proposed action" that is evaluated by the USFWS against ITP issuance criteria
- Addresses incidental take from otherwise lawful, non-federal activities that does not jeopardize the continued existence of any listed species or destroys or adversely modifies designated critical habitat for a listed species

HCP Content Requirements

ESA Section
10(a)(2)(A)

- No permit may be issued by the Secretary authorizing any taking unless the applicant submits a conservation plan that specifies
 - the impact which will likely result from such taking;
 - what steps the applicant will take to minimize and mitigate such impacts, and the funding that will be available to implement such steps;
 - what alternative actions to such taking the applicant considered and the reasons why such alternatives are not being utilized; and
 - such other measures that the Secretary may require as being necessary or appropriate for purposes of the plan.

Regulations promulgated by the USFWS also require that, in addition to the criteria above, an applicant must include in its HCP “procedures to deal with unforeseen circumstances” (50 CFR §17.22(b)(2)(i)(C)).

ITP Issuance Criteria

ESA Section 10(a)(2)(B)

- The USFWS must issue an ITP when it finds, after an opportunity for public comment, that an application and HCP demonstrate that:
 - the taking will be incidental;
 - the applicant will, to the maximum extent practicable, minimize and mitigate the impacts of such taking;
 - the applicant will ensure that adequate funding for the HCP will be provided;
 - the taking will not appreciably reduce the likelihood of survival and recovery of the species in the wild;
 - the applicant will ensure that other measures that the USFWS may require as being necessary or appropriate will be provided; and
 - the USFWS has received such other assurances as may be required that the HCP will be implemented.

Chapter 1.

Introduction

Purpose and Need for the Amended HCP:

- 1. Extend the duration of the original Incidental Take Permit (ITP)**
 - Original ITP expired; Requested extension of 25 years
 - Allows for continued use of previously authorized, but unused, incidental take of the Mojave Desert tortoise (MDT)
- 2. Clarify the original intent of the HCP**
 - Scope of Covered Activities outside/inside the Reserve
 - Amount/extent/type of authorized take
 - Language in the original HCP was confusing
- 3. Recalibrate the original metrics for take and mitigation**
 - Update current information regarding
 - extent and distribution of Known and Potential MDT Habitat
 - estimated abundance of MDT within such habitats

Chapter 1.

Introduction

Purpose and Need for the Amended HCP: *Continued*

3. Incorporate changes in regulation and policy
 - Consistency with the 2016 HCP Handbook and other guidance documents
4. Accommodate the proposed Northern Corridor, if a route through the Reserve is approved
 - Zone 3 boundary adjustments to exclude the proposed Northern Corridor right-of-way
 - Zone 6 addition to provide additional conservation benefit
 - Remove conflicts between the HCP and proposed actions related to the Northern Corridor, if approved

Chapter 2. **HCP Plan Area and** **ITP Permit Area**

- Defines the Plan Area and Permit Area
 - Area where authorized incidental take and conservation measures will occur
 - Washington County minus the area within the MDT Northeastern Mojave Recovery Unit
- Describes and updates the basic environmental context of the Plan Area
 - Focus on resources relevant to the conservation of the MDT or the Covered Activities

Chapter 3. Covered Species

- Species of Concern Review
 - 15 other federally listed species in the Plan Area
 - High-level assessment of current status in the Plan Area and likelihood of incidental take associated with the Covered Activities
 - Brief rationale for why other listed species are not covered by the HCP
- Covered Species – Mojave Desert Tortoise
 - Updated Science – Life History, Range and Habitat Requirements, Population Size, and Threats
 - Current Status in the Plan Area
 - Known and Potential MDT Habitat
 - Estimated MDT Density and Abundance

Chapter 4. Covered Activities

- Covered Activities are certain otherwise lawful, non-federal, land use activities that are reasonably certain to cause incidental take of the MDT
- Covered Activities Outside the Reserve
 - Broadly defined to include any and all otherwise lawful land development or land use activities that occur on non-federal lands outside of the Reserve and that are reasonably certain to cause take of the MDT
 - Reserve boundary and federal land ownership assessed at the time the activity occurs

Chapter 4. Covered Activities

- Covered Activities Inside the Reserve
 - Previously, activities allowed within the Reserve (i.e., “Zone-specific management principles”) were assumed to not cause take of MDT
 - Amended HCP relaxes this assumption and seeks explicit coverage for previously allowed uses of the Reserve
 - All Reserve Covered Activities are subject to the application of conservation measures (e.g., Development Protocols) and approval by the HCAC and relevant land management agency
 - Limited Set of General Reserve Uses
 - Recreation uses and related facilities
 - Utilities, access roads, water development, and flood control
 - MDT translocation
 - Reserve management
 - Limited Set of Zone-specific Uses
 - Zone 1: low density residential development
 - Zone 2 and 3: existing government uses

Chapter 4. Covered Activities

- Proposed Zone 6 Specific Uses
 - Expansion of the Bear-claw Poppy trailhead and parking area and creation of a designated camping area at Moe's Valley, adjacent to the Zen Trail or other high use area
 - Competitive use events are allowed subject to the approval of a special recreation permit issued by the appropriate land management entity or the Washington County HCP Administrator, as applicable.
- Activities no longer relevant to the Reserve have been dropped
 - Moroni Feeds Turkey Farm
 - Some private residential uses
- The proposed Northern Corridor is NOT a Covered Activity within the Reserve
 - If approved, incidental take authorization would occur through ESA Section 7 consultation

Chapter 4. Covered Activities

- Provision for Similar Activities on Federal Lands
 - Federal actions are not covered by the HCP, but the shifting mosaic of federal and non-federal lands can make avoiding a federal nexus difficult
 - HCPs can streamline ESA Section 7 federal interagency consultations by allowing action agencies to reference effects analyses, take estimates, and conservation measures
 - Washington County may agree to “transfer” some of its authorized incidental take to a federal HCP Partner to be incorporated into the federal HCP Partners Incidental Take Statement, such that the total amount of incidental take analyzed in the Amended HCP and related documents is not exceeded
 - If the total amount of take is not exceeded, USFWS can rely on its jeopardy and critical habitat analyses for the HCP to simplify the preparation of its BO

Chapter 5. Take Estimates

- Effects of the Covered Activities on MDT
 - Direct and Indirect Effects
 - Evaluate how effects may rise to the level of take (i.e., kill, wound, harm)
- Estimate the amount and extent of anticipated incidental take, using a surrogate metric and updated biological information
 - Establish “Habitat Modification” as a proxy for measuring and tracking incidental take of individual MDT
 - Similar to original HCP, calculate the total amount of authorized take for Amended HCP based on the acres of Known or Potential MDT Habitat currently occurring within non-federal lands outside of the Reserve
 - Sets a “cap” on the amount of authorized take that can be applied to Covered Activities or transferred to federal agencies for similar activities
 - Analysis will be run two ways: with and without proposed changes to the Reserve boundary to accommodate the Northern Corridor, if approved
- Impacts of the requested taking on MDT regional and range-wide populations

Chapter 6.

Conservation Program

- Conservation Program Goals and Objectives
 - Community—
 - address Washington County’s underlying purpose and need for continuing the HCP with a renewed ITP Term
 - includes the goal of accommodating proposed Northern Corridor, if approved
 - Biological—
 - guide approach to the conservation of the MDT and other species of concern
 - consistent with MDT recovery objectives for the Upper Virgin River population
- Summary of Conservation Actions Achieved

Chapter 6. Conservation Program

- Minimization Measures—reduce the impact of Covered Activities
 - Recreation Management—Public Use Plan (PUP)
 - Development Protocols (Clearance Protocols, Utility Development Protocols, etc.)
 - Education and Outreach (expanded)
 - MDT Translocation (now permanent part of conservation program)

Chapter 6. Conservation Program

- Mitigation Measures—Reserve compensates for impacts of take and supports recovery of MDT
 - Reserve Design and Proposed Changes
 - Long-term Reserve Use and Management
 - Reserve Fencing
 - Grazing Permits Acquisition and Retirement
 - Law Enforcement Support

Chapter 6. Conservation Program

- Reserve Design
 - Formally adopt previously approved Reserve boundary changes
 - Proposed Reserve design changes to accommodate the Northern Corridor, if approved (i.e., Zone 3 exclusions and Zone 6 addition)
 - Compare updated Reserve MDT habitat/density metrics for:
 - original Reserve design
 - with previously approved boundary changes; and
 - with proposed Northern Corridor accommodations, if approved

Chapter 6. Conservation Program

- Long-term Reserve Management
 - Reassert Washington County and HCP Partner commitments towards:
 - Acquisitions
 - Boundary acknowledgement in local planning documents
 - Application of Development Protocols to Covered Activities and similar federal activities
 - Emphasis on MDT conservation
 - Robust adaptive management program through HCAC and Technical Committee deliberations
 - Long-term management is primary responsibility of the applicable land management entity, consistent with intent of original HCP

Chapter 6. Conservation Program

- Reserve Biological Monitoring
 - MDT Population Monitoring
 - Translocation Monitoring
 - Recreation Monitoring
 - Other Adaptive Threats Monitoring (e.g., ravens/predators, fire)

Chapter 6. Conservation Program

- Conservation measures for other SOC
 - Zone 6 Critical Habitats
 - Reserve fencing and law enforcement
- Impacts of take fully offset (focus on proposed Reserve design changes, if Northern Corridor is approved)
 - Expands size of Reserve and protected population of MDT
 - Retires previously authorized incidental take from Zone 6 and White Reef
 - Continues successful translocation program
 - Account for “lead time” benefits of conservation actions achieved in advance of actual takings
 - Ratio of acreage and quality/importance of habitat lost to habitat protected
 - Consistency with regional recovery objectives

Chapter 7.

HCP Administration

- Incremental Implementation
 - Update metrics for ensuring that conservation actions keep ahead of actual takings
- HCP Staffing
 - Required vs. optional staffing
 - Flexibility for future funding
 - Acknowledge the County's voluntary contributions
- HCAC and TC
 - Minor updates to reflect previous changes
 - Reporting
 - Quarterly Reports – now verbal to HCAC
 - Annual Reports to USFWS
 - Annual Work Plan
- Update Interagency (HCP Partner) Agreements
- Amendments, Renewals, Transfers
 - Clarify what constitutes formal and informal amendments
 - 25-year permit term

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Chapter 8.

Budget and Financial Assurances

- Implementation Costs
 - Focus on Washington County commitments
 - Annual costs estimated from original HCP budget and recent Annual Work Plans
 - Updated to account for adaptive management and other contingencies
 - Retains Annual Work Plan process to address specific needs over time and monetary inflation/deflation
 - Breakouts provided for costs associated with proposed accommodations for the Northern Corridor, if approved
 - Washington County HCP budget = roughly \$800,000 per year

Chapter 8.

Budget and Financial Assurances

- Funding Sources
 - Fee assessed on new building permits issued by municipal HCP Partners; 0.2% of estimated construction cost
 - Fees are collected in Washington County's Endangered Species Trust Fund
 - Proposed elimination of prior \$250 flat fee on plat approvals (insignificant revenue source)
- Funding Assurances
 - Demonstrated track record of sufficient funding to implement HCP
 - Incremental implementation/keep ahead provisions
 - Annual work plan budgeting and funding approvals, subject to suspension or revocation of ITP if sufficient funding is not approved

Chapter 9. No Surprises Assurances and Changed Circumstances

- No Surprises Assurances
 - “...the Services will not require the commitment of additional land, water or financial compensation or additional restrictions on the use of land, water, or other natural resources beyond the level otherwise agreed to in the HCP without the consent of the permittee”
- Changed Circumstances -
 - “Changes in circumstances affecting a species or geographic area covered by a conservation plan or agreement that can reasonably be anticipated by plan or agreement developers and the Service [USFWS] and that can be planned for (e.g., the listing of new species, or a fire or other natural catastrophic event in areas prone to such events)” (50 CFR §17.3).”

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Chapter 9. No Surprises Assurances

- Delisting of MDT
 - County may cease implementing the Amended HCP for future Covered Activities that occur outside of the Reserve and cease support for future Reserve land acquisitions
- New listed species in Plan Area
 - County will meet and confer with the USFWS to determine if incidental take of the newly listed species in the Plan Area is reasonably certain to occur from Covered Activities; may seek HCP amendment to add new species or seek separate HCP
- Critical Habitat changes in Plan Area
 - County will meet and confer with the USFWS to determine if destruction or adverse modification of Critical Habitat is reasonably certain to occur from Covered Activities; may seek HCP amendment to avoid destruction or adverse modification

Chapter 9. No Surprises Assurances

- Wildfire in the Reserve
 - Triggered when a wildfire affects at least 1,000 acres of Known or Potential MDT Habitat across one or two Reserve Zones
 - Smaller wildfires addressed through adaptive management; larger wildfires are unforeseen circumstances
 - County will implement additional measures to restore affected areas and prevent future events
- Other catastrophic natural events (drought)
 - Triggered when any portion of the Reserve is within the D4–Exceptional Drought Phase
 - County shall direct its HCP Partners to temporarily suspend MDT translocations into the Reserve
- MDT disease
 - Triggered when a new MDT disease is detected within the Plan Area or if the observed incidence of URTD among MDT within the Reserve exceeds 25% of the population
 - County will suspend MDT translocations into the Reserve and will meet and confer with the USFWS to discuss alternative translocation options and possible treatment for affected tortoises

Chapter 9.

No Surprises Assurances

- Private lands in Reserve become developed
 - Concept in progress
- Municipality Non-participation
 - Concept in progress
- Northern Corridor Non-entitlement
 - Triggered if the proposed Northern Corridor does not receive all necessary permits or approvals for construction or if an alternative route for the Northern Corridor that does not cross the Reserve is ultimately selected and approved
 - County does not implement the proposed Reserve design changes associated with the Northern Corridor (i.e., Zone 3 exclusions or Zone 6 addition)

Chapter 10.

Alternatives Considered

- No ITP Renewal
 - Permit Expires – Take authorization expires
 - Individual project ESA compliance required
- ITP Renewal with Northern Corridor as a Covered Activity
 - Recalibration preserved
 - Northern Corridor becomes a Covered Activity
- ITP Renewal with original take metrics
 - No Recalibration - original numbers
 - Possible Zone 3 revisions and Zone 6 addition for Northern Corridor