

## HCP 6-MONTH REVIEW MEETING

May 14, 2009

10:00 – 3:00 p.m.

Wisconsin Bar Association

### MINUTES

**Attending:** Cathy Carnes, Quinn Williams, Bob Hess, Dave Lentz, Rebecca Schroeder, Darrell Zastrow

- Reviewed/repair agenda
- Reviewed action items from 11/4/08 meeting (*minutes attached*)

#### 1. Permit Renewal Preparation

*Review and adjust renewal steps and timeline (updated time table attached)*

Draft HCP, ITP and associated documents should be submitted to GBFO for review prior to submitting to the RO.

- HCP Chapter 2 update issues/comments/discussion.  
Due to the absence of all DNR HCP program support staff, Dave reported that this update is not likely to be on schedule; and certainly not prior to the July 1 target date for the IA. Cathy said it doesn't have to be done before 1<sup>st</sup> draft of IA.
- IA proposal: issues/comments/discussion.  
A first draft IA is due July 1 to Lisa M. (R3); DNR to GBFO for transfer to R3. This is just a draft to get a review assignment into the queue at the FWS solicitors' office. Draft IA can have gaps (to be filled in after Chapter 2 is updated), e.g. no appendix A needed for this first draft. Regarding the gaps in the IA, state the reason for the gap and the anticipated information that would go there, e.g., WDNR lands included maps (Appendix A) has changed little; an updated map is being worked on. Draft is a vehicle to get the Solicitor involved and to start the official process, so it does not have to be in final form ("preliminary draft")  
**Action: Dave to get IA to Cathy and Lisa by July 1 (provide Cathy a copy for review prior to sending to Lisa).**
- EA template: review and discuss process steps and expectations.  
DNR is to do the EA with help from the FWS. It will need to be reviewed by GBFO and FWS RO.  
**Action: Cathy will work w/ Lisa on draft outline of EA and provide to Dave.**

- ITP amended: issues/comments/discussion  
The ongoing ITP conditions in need of amending over the last few years have stacked up. None of the amendments change the outcome of the HCP, so Cathy and Dave were waiting until the renewal to do all the amendments at once.

Current need is to review existing conditions for updates and improvements, e.g. Condition X lists reporting requirements. These specific reporting parameters are now somewhat different for recovery properties than for other partners who are managing with consideration. A parallel set of parameters for Recovery properties vs. HCP partners will need to be articulated. This will result in a significant modification to Condition X. Cathy suggested DNR develop a Recovery-data base for recovery properties (e.g., spreadsheet that could be updated annually). Bob informed us that a Geo-database is currently under development by LTE Anna Hess and could be developed further under the Division of Forestry's contract with UW-Madison. Rebecca noted that Gregor emailed in regarding UWSP involvement. Discussed Quincy Bluff acquisition and generally discussed reintroduction.

**Action: Bob and Cathy** to develop a comprehensive set of HCP/ITP monitoring and reporting conditions specifically for Recovery properties under this ITP. This is not the same as Section 6 reports but has some overlap.

**Action: Cathy & Dave** to work on updating all ITP conditions consistent with the current state of the HCP program. Hardcopy package will go to the Green Bay field office, includes EA, application for permit, and will then be sent to the regional office.

- 5-year review and assessment: Issue driven not semiannual meetings; major 5 year review and assessment.  
Cathy and Dave have recently been discussing the need for periodic major HCP reviews to assess the direction of the HCP and make course corrections. Dave suggested doing this at the halfway point (5 years) and again just prior to the next permit renewal (if needed) in 2019. Current 6-month HCP reviews have been more like working group meetings to affect initial and ongoing adaptive management improvements. The 5-year review would involve a broader programmatic assessment and would not replace the HCP annual monitoring reports. The current 6-month reviews will very likely be issue driven instead of calendar driven following the renewal of the permit. All agreed the HCP has matured and become very much standardized.
- Stepping down issuance of Certificates of Inclusion to DNR.  
Cathy commented that the DNR and the partners have done an excellent job of implementing the HCP thus far. The Service has confidence that the DNR administrative systems in place for HCP implementation are sufficient to delegate the authority to the WDNR to issue CIs on behalf of the Service.

**Action: Cathy** to develop a letter, a review checklist and coordinate with Lisa and get back to DNR.

**Decision:** Once the Service delegates issuance of CI's officially to the WDNR, they can issue CI's to new partners under the existing permit or to existing partners to cover them under a future, new ITP.

The DNR appreciates this trust and is happy to do it. However, the HCP Program in the Division of Forestry is not authorized to sign CIs; the DNR Secretary does this.

**Action: Quinn** will pursue getting this authority delegated from the Secretary to the HCP program.

Cathy said the Service would be happy to brief the Secretary regarding the HCP program's success, value and the need for LTE support in conjunction with this CI issue.

**Action: Quinn** will advise.

## 2. SHCA Amendment/template progress/issues/comments/discussion

- Review blanket clauses in update template:  
Future management activity inclusions can be accommodated by standard SHCA language. For example, the SHCA can identify a list of activities covered by the HCP and state that other activities may be covered in the future once approved by the DNR/FWS; DNR would develop protocols or guideline in coordination with the FWS for the new activities as appropriate. Cathy thinks this is a good idea and that Louise would like it as it adds flexibility to the HCP.

**Decision: Cathy** agrees to use of this type of language in the SHCA.

- Does FWS need to approve SHCAs?  
Cathy already approved new SHCA format; she will not need to approve standardized SHCA, or SHCAs with no changes. Cathy will need to review non-standard SHCAs that have custom features. Discussed a custom feature approved for one partner (Burnett County Forest) in 1999, which at least one other partner (Clark County Forest) would like to adopt in their SHCA. This is the exemption of pre-management surveys for low potential habitat areas based on basal area as a reflection of the HCP's 75% crown closure threshold. Today, forest recon uses density classes, which are related to basal area.

**Action: Dave** to request silviculture team (Joe Kovach) to develop a correlation between forest stand density class and 75% crown closure for jack pine, red pine, scrub oak and aspen.

**Action: Quinn** will let Jake Nichols and Rick Daily know we're looking into this.

- Utility Distribution Lines – coverage issue  
*Review participation responsibilities; decision item.*

Bob offered the following definitions:

Transmission line runs from generating plant to substation

Distribution lines from substation to the customer's service site.

Initially, some partners, like Tom Hunt at WP&L, identified low and high probability land in their lands included. This distinction may have been distribution lines vs. transmission lines. Transmission lines were where the

Kbb habitat was expected; but not so much so on distribution lines. Since the HCP began, ATC has taken over management of transmission lines for most utility partners. Now that the utility partners are updating their SHCA lands included, the question has come up whether or not partners need to include distribution lines.

Distribution lines cover smaller areas, where the frequency and type of management generally did not impact Kbb; however, there is no set definition of what that constitutes. Generally, the line from the transformer to the customer's service is not regularly managed by the partner. The customer may mow it like a lawn or let it become overgrown. Either way, these areas are small and not likely to have habitat. Also, any line clearance is very minimal and usually to gain access to do a customer requested repair. The issue comes down to whether the utility (partner) is taking the action, or the landowner (electric customer) is taking the action. If it's the landowner (customer) they are usually going to be in the voluntary category, and have automatic coverage for contractors. Not all could be voluntary, e.g. an ethanol factory. These entities fall into a gap; this may pose a problem with coverage. Cathy suggested a strategy to cover take by "Gap" people. Identify all the little activities (by type) that may involve take, identify about how many acres of potential KBB habitat that would affect – if this is a low percent – ask for automatic permit coverage of this amount of take (e.g. putting up tent for picnic) with a justification e.g., recovery work will compensate for this small amount of take. Cathy asked if DNR can determine how many acres of distribution lines are within the HPR owned by partners. Quinn informed the group that this was an issue for further discussion amongst the affected utility partners.

**Action:** Quinn will continue to work with utility partners to clarify line definitions and develop guidelines on what land partners need to include under the permit. A resolution for the "Gap" people (Dave's term) in Voluntary Landowner Group complicates issue will need to be identified.

- Long term mgmt plans by six of the county forest partners: Do these still have to be included in the updated SHCAs? (*Need to document a final decision and share outcome with affected county forests.*)

**(A final decision wasn't made at the last meeting.)**

*Excerpt from 10/23/08 HCP-WG meeting notes (CC & DL):*

*What value do county forest long-term management commitments outside of BRZs have in the big picture? These partners may continue same mgt (firebreaks) with consideration for KBB, but does a commitment of long-term habitat have any significance toward recovery?*

*For county forests not within a BRZ, the act of maintaining firebreaks will not stop because the commitment is omitted from their SHCA. Also, the partner will be performing disturbance management consistent with the management protocols.*

*For county forests within a BRZ, the county forest staff should be included in the LRT discussions. Enhanced commitments through their SHCA may*

suffice for recovery commitments even if only as long as the permit is needed. Beyond that point the FWS may choose to work on a land swap or long term easement. Cathy agreed it seemed reasonable to not require such long term commitments outside of BRZs - esp. if actions would continue anyway (e.g., firebreak management).

Previous Action: Dave to work up justification and logic for considering dropping these commitments for each of the 6 county forest's long-term commitment. Some in BRZs may not be appropriate to drop, but may need to be retooled to have a focus on current recovery strategies and needs

**Start of 4/15/09 discussion:**

Cathy included that partners should include provisions showing willingness to revise SHCA commitments to fit recovery program.

Quinn added that perpetual conservation commitments on county forest lands not possible under county forest laws (10-15 years leases are allowed without land withdrawal for mineral exploration and extraction, firebreaks, high voltage transmission lines and pipelines).

Rebecca said that the best way to preserve land would be via a Designated State Natural Area (requires MOU); this is not a guarantee but it is hard, politically, to pull out of such an agreement. Rebecca comfortable w/ Designated SNAs – they make for a good working relationship, meets the landowners need and shows how they are meeting Wildlife Action Plan goals - need benchmark sites for sustainable forest management practices. Dedication of SNA cannot be done on county forest lands – permanent SNA done on lands DNR buys or on TNC land; others mostly don't want to encumber lands w/ dedication.

**Action: Quinn-** seeking clarification for whether conservation easement could be purchased on county forest lands – possible if this does not conflict w/ mission of county forest.

**3. Recovery Issues**

The HCP will include a stronger emphasis on Kbb recovery. Cathy advised updating the table (Table 2.20, page 150) in the HCP that summarizes acreage commitments to recovery.

**Action: Dave** will update Table 2.20, p 150 of HCP and related recovery information

Bob and Gregor have had discussions with UWSP staff about engaging students in Kbb habitat and population assessment work. UWSP may be interested in providing assistance and in pursuing other habitat management related questions.

**Action: Bob** will explore getting assistance from UW-Stevens Point and other State universities for surveys and habitat assessments.

Quincy Bluff: Issues revolving around potential KBB reintroduction at Quincy Bluff were discussed. A draft KBB Captive Rearing Manual is being peer reviewed and will be available from the Service for reintroduction projects.

Darrell suggested that Andrea Diss be included as a peer reviewer of the manual. Jon Robaidek, manager at Quincy will be planting lupine and nectar at Quincy this year with funding from a SWIG grant. The ski hill near Quincy is a lupine seed source.

**Action: Bob** will consider putting WDNR land at Quincy into Kbb recovery program pending discussions with the Service on expectations and requirements.

*Post meeting comment (Bob): I suggest we try reintroduction to see if it works. If so, then include it as a recovery property.*

**Action: Cathy** to query Andrea Diss on her interest to peer reviewer the Draft KBB Captive Rearing Manual.

#### 4. USFWS KBB 5-Year Review:

- Cathy has sent a spreadsheet to KBB recovery partners that will help summarize the status of KBB recovery populations by recovery unit range-wide. Bob has filled out the spreadsheet for Wisconsin.

**Action: Cathy** will coordinate with Bob on any more info needs for the KBB spreadsheet

- Cathy would like information to help with understanding of how secure KBBs are on county forest lands (e.g., Jackson, Eau Claire, Clark, Burnett). According to Darrell, county forests are likely to be (or will be soon) in either the Certified Forest or Sustainable forest programs – these programs include early savanna management.

**Action: Cathy** send Darrell and Quinn email asking for information on what county forest are in Certified or Sustainable forest programs and that are managing for early savanna habitat and the KBBs

**Action: Cathy** – send email to Sarah Pratt, Bob Hess, and Armund Bartz regarding running a frame model for BRSF to determine how BRSF can support a viable KBB pop.

- Cathy is also interested in learning how long it is likely that county forest lands would remain as forest rather than be converted to other uses; this would help define the “foreseeable future” (FWS term) used to assess threats to T&E species. Evidently it is not that easy to sell land from county forest, rather land swaps occur (some are 3:1 swaps; 3 acres to the county forest for every acre lost).
- Shifting Mosaic and KBBs: An evaluation of this would be included in the proposed KBB 5-year review.

**Action: Cathy also Darrell and Quinn** (in an email) for input on how long it is likely that county forests will remain in forest.

- NHI data for 5-year review of Kbb listing. Cathy would like to work with NHI folks to help make sense of all the KBB data e.g. organize the EOs into KBB metapopulations. Not all Kbb data in NHI

**Action:** Cathy will talk to Terrell Hyde (BER) for help in sorting out the EO information and developing criteria of KBB metapopulations.

**5. The HCP Biological Goal: Measuring SM Outcome** (*Brief update*)

*Discuss HCP Team breakout results. Is this the direction we expected this to go?*

Dave reported that no additional progress has been made since the winter meeting. He is the hold up.

**6. New Partner Inclusions, company sales/transfers, name changes, land transfers, SHCA amendments, withdrawals, etc.**

*DNR will give progress reports on current applicants.*

- Town of Anderson (Burnett County) a new applicant has a new town chair. SHCA is forthcoming
- Dairyland Power has hired a consultant to hasten completion of there conservation agreement.
- Town of Millston (Jackson County) has a new town chair; townspeople are disgruntled about not mowing in the summer. New town chair is anxious to discuss the Kbb program with Dave.

**7. Swengel concerns:** *review situation and agree on action plan*

Scott Swengel has accused the DNR, another HCP partner and a non-partner of violating federal and state Incidental Take Permits (management protocols). The Swengels have complained about illegal take of state species, phlox moth, frosted elfins, and Federal KBB – but mostly about state listed species. Dave is investigating these accusations with the affected properties. The compliance audit format is being used for the DNR and partner investigations. The Swengels are displeased that that BER does not take a stronger position to make state properties manage for state listed species.

Cathy offered comments about the non-partner (potentially an ESA violation), i.e. the County Hwy X (Wood County) accusation. Cathy asked if it would help if FWS LE wrote a letter to the Wood County Highway Commissioner about the Hwy X violations. Dave suggested that LE may not be able to do anything given there is likely no remaining evidence. Cathy thinks they (FWS) could still send a letter to encourage the county to become a partner in the HCP. Dave commented that Fritz Schubert (Wood County Forest Administrator) is attempting to recruit the Wood County Hwy Dept as a HCP partner. It was agreed it would be better to recruit the WCHD as a partner. Cathy said that Scott S. told her he wouldn't mind if she didn't pursue the Kbb issue; he is more concerned about the state listed species (frosted elfin).

**Action:** Dave will re-contact Fritz S. and suggest that Ron Chamberlain (Adams County Hwy Commissioner and a good ambassador of the HCP program) might be helpful in communicating the benefits of HCP partnership to the new Wood County Hwy commission. Bob Hess may also be able to assist.

**Action:** Dave is arranging for HCP Compliance Audits of the accused properties. BER and the Cathy are encouraged to attend.

**Action:** Dave will get some preliminary feedback from the accused parties. If there is sufficient reason to believe that state properties did not comply with state endangered species management protocols, then Rebecca would like to be involved in the investigations and perhaps attend the HCP audits of these properties.

## 8. Recovery Program Update

Recovery Work Proposed at Meadow Valley (MV): About \$9,000 of Section 6 funds will be available to help restore about 15-20 acres of KBB habitat at MV. Bob may be able to get help from a Sandhill technician.

A meeting is being planned by Larry Wargowsky at MV this summer to help facilitate moving forward on recovery work at MV. Rebecca said that master planning for Sandhill, MV, and Wood County has started. She recommended that she, Kris Belling, and Greg Dahl be invited to the MV meeting as well as Alan Crossley, state lands planning specialist for wildlife, Madison. Just this year a cooperative agreement was completed that would allow the state to work with federal staff on prescribed burns - federal staff needs suppression training, states did not – now they recognize each others burning standards and can work together. MV does not like annual reporting to Necedah (as required by HCP ITP).

**Action:** Cathy & Bob will work up recovery actions to take to Larry's meeting.

## CARRY OVER TO HCP WG or FUTURE MEETING

- New Construction Guidelines and associated protocols: need final approval and then post to the web.
- NNLOH: Measures for SM objective
- One-time permittee process needs completion
- Mitigation not in perpetuity by HCP partners for Minor/Major construction short-term take and for permanent take. Is this understood? Where is this documented?
- Discontinue Cause-Effect Monitoring for shifting mosaic activities.  
*Issue: The effect of approved forestry management activities and conservation measures is documented. (Refer to attached issue paper). Document concurrence*
- Land Included documentation.  
*Proposal: Do not use legal descriptions for renewing lands included under the new High Potential Range (HPR). Partner to provide maps which clearly highlight lands included. Map includes TRS markers. Partner designates approximate total acres included in the HPR. When a partner has a land transaction, they submit a revised map and a new approximate acreage figure. document decision*
- ITP Condition X.5 says to report, “The dates of the first and second flight periods of the adult butterflies, including peak flight times.” The emergence model predicts the peak of each flight, but only predicts the start and end dates within +/- 3 to 4 days.

*Issue: Why is it necessary or valuable to implementing the HCP to accurately report the absolute start and end dates since we don't want to survey at the tails of the curve? Will reporting the emergence model be sufficient? Discussion, decision*

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- Reporting new landowner contact information following a partner land sale.

*Issue: Since we are no longer actively recruiting new partners outside of BRZs, why report purchaser? Discussion, decision*

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- Draft HCP Chapter 2 update
- Develop an IA that reflects new HCP
- Rerun Risk Assessment
- Develop 10-year review and EA document
- ITP Renewal Preparation Carry overs

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1. Update ITP names, etc.
2. Other ITP updates
3. Redo risk assessment for partner lands included in BRZs (see 11-9-07 HCP review minutes)
4. etc.

- Update lands included for new HPR using maps w/ TRS and total acres number