

**Karner Blue HCP
Implementation Oversight Committee (IOC) Meeting**
October 30, 2008, 9:00 a.m. - 2:30 p.m.
Mirror Lake State Park, near Baraboo

Minutes

Attending: Gary Birch (Chair), Ursula Petersen, Dave Lentz, Quinn Williams, Todd Watson, David Ziarnik, Jody Gindt (attending for Jim Zahasky), Bernie Williams (recorder)
Absent: Hannah Spaul, Jim Zahasky

1. Anti-Trust Statement

- Quinn Williams opened the meeting with the anti-trust statement.

2. Approval of the minutes from 1-14-08 & 2-12-08

Minutes were approved as written by all attending.

3. Review action items from the previous meeting.

All but the following item were either complete or will be covered in today's agenda items.

- The HCP Field Guide was completed for the 2008 field season; however there were some mistakes and suggestions for opportunities for improved formatting. A revised version will be reprinted in the spring of 2009 to correct errors.

4. IOC Member updates

- Utility Managers: Dave Ziarnik (Adams Columbia Electric Cooperative) has agreed to take Jim Heap's place as the IOC representative for the Utility Mangers group. There is no alternate for the group. Dave Z. will work with the five volunteer candidates to select his alternate.
- TNC: Hannah Spaul has replaced Steve Richter as representative of the conservation group. Hannah has been Steve's alternate for a number of years.

5. Draft Construction Guidelines – status report:

- Dave L. shared that the draft construction guideline and associated protocols have been used provisionally under the oversight of the DNR and FWS. The FWS and those partners who have used these on projects are comfortable with the content. However, the comprehensive set of documents has proven complex and difficult to follow. Gary mentioned there would need to be supplemental information to further IOC discussions. Dave L. and Cathy Carnes are reworking the organization and the flow of the documents. When done, a draft will be shared with a select group of users to get their feedback on the organization and content.
- Perpetuity for mitigation: It is implied that sites where habitat mitigation (permanent take) and habitat replacement (complete vegetation removal/short-term take) are implemented by full & limited partners on their land will be managed and monitored in perpetuity. While this is consistent with the ESA for permanent take by non-partners (one-time permittees), Dave L. stressed that the partners are regularly providing beneficial habitat disturbance that is critical to the Kbb's persistence. For this reason, partners should not be required to manage habitat replacement

(mitigation) in perpetuity that is related to short-term take. Once the mitigation is deemed successful, the site should be managed consistent with the HCP. The perpetuity question for permanent take by partners is unclear. Gary stressed that if partners are required to manage permanent take mitigation sites in perpetuity it would discourage mitigation on partner land. Partners should always mitigate on a recovery property.

It makes more sense that partners would mitigate permanent take on recovery properties where the habitat will be maintained in perpetuity under a recovery implementation plan. This would make sense for one-time permittees as well.

Action: Dave L. will get firm answers and documentation on how perpetuity will be handled in the context of the construction guideline.

- Are one-time permittees partners? Ursula stressed that partners & non partners are not the same thing, it is implied, though not on paper. Dave L. considers one-time permittees as non-partners. And yes sometimes the FWS calls one-time permittees partners, but they are not by definition. Partners provide beneficial Kbb habitat disturbance by their management. One-time permittees engage in permanent take, then mitigate for the take and have no involvement in the HCP other than to use the ITP for one-time take authority.

Action Item: Dave L. will make this distinction between partners and one-time permittees clear in the updated HCP.

6. Communication Plan and Outreach and Education

There was discussion about changing the emphasis of O&E by partners. Initially, mandatory O&E was the price partners pay for having a voluntary category. The first priority was O&E in the recovery areas (ACE/SPA at that time). In practice this did not happen, at least not by design. Partners did O&E where they had opportunities. Often this meant K-12 or other non-landowner audiences. Dave L. commented that of late, many partners are not doing O&E since they have no opportunities for value-added O&E. Perhaps it is time we focused on strategic, real opportunities to do outreach (in BRZs) that might result in conservation that supports recovery populations. If some partners want to continue to do Kbb O&E to school children because it is part of their corporate philosophy, that's fine, but it should not required under the HCP.

7. **HCP's Primary Goal:** Dave asked the group, if we were going to change the HCP goal, could we consider some focused O&E goals? What could we be doing additionally for outreach and education? What can we do to encourage stewardship in recovery populations, and really help the species? The communication plan and O&E strategy have gradually changed over time, but the original plan and strategy have been adjusted and modified, often without formal changes. We have been adapting the HCP over the years trying to cover various options and have force fit changes into the original, elaborate concept. Dave L. would like to throw the communications plan out and rethink what we really should be doing for the next 10 years that has value and is consistent with the 5-point plan. What I would like to see is a fresh look, and a different focus.

Action Item: IOC to consider developing a sub-group that will re-visit the goal and Communication plan; focusing on what is important.

Gary stated that these concerns and changes will need to wait until the winter meeting, and after the winter meeting it will be important to continue with recovery and disturbance.

Action Item: Dave L. to add an agenda item for the winter meeting to call for volunteers to work on a team to re-invent a Communications Plan and O&E strategy consistent with the 5-Point Plan.

8. ITP Renewal Process Steps

- Dave L. shared a draft renewal task list and schedule. The tasks were briefly reviewed. The schedule will no doubt be refined and adjusted. Next week the schedule will be reviewed with the FWS at the HCP 6-month Review Meeting. We will review everything with all the partners at the winter HCP Team meeting.
- Re: New SHCA templates vs. amending current SHCAs. It will be up to each individual partner to work with the DNR's HCP attorney (Quinn).

9. Updated "Operational" version HCP

Gary opened the discussion on the purpose & plan for drafting a simplified, fully amended, stand alone version of the HCP (replacement for Chapter 2 of the original combined EIS/HCP doc). The new Chapter 2 will be much smaller; the original and current Chapter 2s will be archived, allowing for the history to be referenced.

Action Item: Dave L. plans to revise Chapter 2 sections A through I and appendix F (guidelines and protocols) prior to the winter HCP Team meeting.

Action Item: The IOC will need to review and comment on Dave's re-writes section by section as they are written in order to have a good quality, close to final draft ready to share with all the partners as a homework assignment prior to the winter meeting. Issues unresolved by the IOC in the review process will be able to be discussed and worked on by all partners at the winter meeting.

10. IOC Role and Responsibilities in the Future

Much has changed over the last 9 years. How will the IOC change to reflect this in the future?

Decision: For the past 9 years the IOC has worked on adaptive management issues around "finishing the HCP". This kind of work will be much less in the future. However, the IOC will continue their primary administrative role to represent the partners' interests into the next 10 years.

Question: Gary asked the group if they want to consider meeting quarterly at most. The option to have Live-meetings is also available. It will be important to maintain partnering by having meetings more often than less, but quarterly is a good starting point.

Decision: The committee agreed to have IOC meetings at least quarterly.

Question: Gary asked if the current entity groups are still the most appropriate IOC membership composition. Is everyone represented, or could we consolidate? Would the committee consider combining some entities? Possible representation groups could include something like Private Forestry, County Forestry, Conservation groups, Corridor Managers and Road ROW Managers.

If we can consolidate representation too much, there will be fewer inputs for adaptive management; and less partner interest in protocols improvement and administration of HCP implementation and oversight. Gary questioned, if TNC opts out of the HCP as Steve Richter imagined they might, will the IOC be locked into having a conservation

group? Dave stated that if TNC engages in the recovery at Quincy Bluff they will then stay involved in the HCP.

Decision: The IOC agreed to essentially keep the representative groups as they have been with minor adjustment in titles to better define the group.

IOC Representative Groups will consist of 7 members representing:

- ♦ Private Industrial Forestry
- ♦ County Forests
- ♦ Utility Corridor Managers
- ♦ Road (ROW) Managers
- ♦ Conservation Groups (TNC)
- ♦ Agriculture (voluntary conservation)
- ♦ DNR (permit holder)

Gary asked if anyone can see further administrative changes. None were offered.

Dave asked the committee if representation on the IOC by the key “Participants” i.e. the WI Paper Council, WI Woodland Owners Assoc., Audubon, and Sierra Club is still needed, or if they can be consolidated due to their lack of attendance at the meetings the last 9 years? These “honorary” IOC members were the key “participants” who were so instrumental in developing the HCP and can still serve as a watchdog for the group. Gary agrees that though they do not vote, they should remain on the committee and be encouraged to participate.

Decision: Leave the current “participant” members of the IOC on the committee.

Action Item: Dave L. and Gary will draft a communication to these members to see if they are still active in their organizations, if not, who has taken their place, and further encourage their participation in the permit renewal process and ask what HCP involvement they see for their organizations in the future.

11. Restructuring the HCP Team Meetings for the Future

Only 11 partners had representatives in attendance at the last summer HCP Team meeting (2007). There was no meeting in 2008 due to DNR workload problems.

Question: Should HCP Team summer meetings continue every year?

Gary commented that partners are still interested and suggests that field trips continue to show them what we are doing. Ursula asks how many partners showed up in the past. Dave said that all partners attended until recently. We were learning how to apply the conservation measures as we implemented the HCP. Everyone attended to learn as we were making changes to the HCP. Also, there was a great deal of solidarity among those after developing the HCP together every month for 5 years. Many of these people are no longer involved in the HCP; new folks and new partners who did not work on the HCP have taken their place. Quinn pointed out that unless the Service changes the listing, the partnership is always going to be there. Dave agreed, and stated that the Partners have performed very well so far. Continuing these forums can help provide motivation and focus in order to sustain this excellent performance into the future.

Decision: Winter & Summer HCP meetings will be retained.

Additional adjustments to meetings will include maintaining and providing training, adaptive management, and winter meeting tutorials to provide face to face training for

new people on implementing the HCP, e.g. annual reports, preparing for an audit, basic HCP requirements, etc. Ursula suggested that winter meetings could be structured as a symposium where you could pick and choose information pertaining to recovery, reports, populations, etc.

Action Item: Dave to put topic on the 2009 HCP Team winter meeting agenda to discuss the purpose and objectives for winter and summer HCP Team meetings, and field trips; and to ask partners what kinds of activities they would value the most.

12. Revisit the HCP's Biological Goal: No Net Loss of Habitat (NNLOH)

Gary stated there was a need in the HCP process for a type of measuring device, which would provide a threshold value of success. We came up with NNLOH. Ironically, as soon as you mow, or cut down a tree you increase habitat, even though you incur loss to the animal. Again, if DOT doesn't continue to mow, the Karners go away. By virtue of the fact that any act of taking (short-term take), a value goes into credit column in the NNLOH equation. Partners are not responsible for habitat lost due to natural succession, so this doesn't put a value in the NNLOH debit column. Only permanent take and complete (short-term) removal or destruction of vegetation goes into the debit column. This is offset by mitigation that goes into the credit column.

Jody asked how you can measure NNLOH on a shifting mosaic, keeping in mind that any disturbance is a plus for the species. Dave stated that we can say NNLOH is our goal, and look at the characteristics and activities that contribute to it, but we can't measure NNLOH across all lands since it's not possible to get a snap shot in time to use as a baseline value for NNLOH.

Gary stated that if it was the goal, then we can provide the information in the annual report, and ask; should it even be an issue. Knowing now that we have more of the species than we ever did before. Dave suggested that they replace it with a numerical loss that will force us to provide better conservation, or we just leave it alone.

Quinn questioned whether or not partners practice managed habitat disturbance following Conservation Measures outside the High Potential Range (HPR). Is no net-loss only related to the HPR? Are unregulated areas providing better habitat? Dave reminds everyone that our conservation can't prevent mortality of individual Kbb, but what is important is the beneficial disturbance we provide on Kbb habitat in order to sustain their populations. How will we focus our energies on sustaining habitat?

Decision: It was agreed to leave NO-NET-LOSS-OF-HABITAT as the primary goal of the HCP, and work on a reasonable, measurable objectives to explain and satisfy this as a goal; not a threshold number of acres of habitat based on a balance sheet.

13. Articles of Partnership

- **Proposal:** Include operational directions currently in the Articles in the new HCP. NHI data sharing authority was achieved by the original partners through a clause in the Articles. These Partners will need to adopt the new SHCA template, which includes a NHI data sharing clause or amendment there agreements. Do not amend the Articles; discontinue them.
- Operational Procedures and Articles of Partnership. Dave L. stated that initially the partners felt they needed the Articles of Partnership. From the beginning it was

important that the partners find a common goal and a set of commonly accepted operating procedures to bind them together as partners for the long haul in order to do what was needed to develop this new type of conservation program they envisioned and communicate the vision to others. There was no HCP at the time that described the goals of the partners or how they would operate. Today we have an HCP for this. Still, the solidarity of the partnership is important to sustain the efforts partners make into the future. Dave L. suggested substituting the Declaration of Intent as the focal point of the partnership. Quinn suggested we retool the Articles to retain the commitment that binds them together in conservation for Karners and visa vie connects them to a common goal of conservation with the US Fish and Wildlife Service.

Dave pointed out that the original partners have no Certificate of Inclusion from the Service. The original partners received their incidental take authority directly from the ITP as they were listed by name as sub-permittees. Gary asked if we need the Articles of Partnership. Dave stated that the original partners signed a letter of subscription agreeing to comply with the Articles. Today, new partners sign an SHCA. Quinn asks if it wasn't just symbolism that the Articles provided. Dave pointed out that if we abolish the Articles, adjustments will have to be made to carry over certain commitments in the Articles to another document, i.e. an SHCA. This will need further investigation and should not be taken lightly.

- Dave suggested that in lieu of the Articles of Partnership committed to by letters of subscription or SHCAs that we drop the Articles and absorb the operational content in the new HCP and adopt the DOI as the symbol of the partnership. Many of the goals in the Articles that were committed to are no longer pertinent as these goals have all been achieved. A clause that states the partners “subscribe to the DOI to the best of our ability” can be added to the SHCA template. Signing their SHCA replaces the letter of subscription and reinforces the commitment of the partners. This will be more current than the commitment to the Articles, especially since the partners did not directly sign the DOI.
- The IOC will remain as a representative body, and partners relationships will be addressed in the beginning of Chapter 2. The symbolism of the Articles will remain, though we will follow the HCP and Declaration of Intent. Quinn just wants to make sure the partnership remains a cohesive unit in their relationship with Fish & Wildlife Service. We don't want to jeopardize the permit knowing that partnership took a lot to build and needs to be protected.

Decision: Gary proposed we incorporate the operational content of the Articles into the new HCP, and adopt the Declaration of Intent as the symbol of the HCP Partnership. The committee agreed.

Action Item: Quinn and Dave L. will draft new language to explain and share the change from the Articles of Partnership to the Declaration of Intent.

14. SHCA Template

- From the previous discussion the idea was carried over to develop a single, simple, standardized SCHA template. The template and some features have evolved with the partner transfers and the addition of 15 new partners over the past 9 years. One significant issue is that the original partners received NHI authority by signing a

Letter of Subscription. New partners and transferees have a paragraph in their SHCAs to cover this. If the AOP is eliminated, most original partners will need to add an NHI clause to their SHCAs. There are a number of other paragraphs that will need amending.

Action Item: Quinn and Dave will draft new language prior to the winter meeting.

Dave stated that the goal to finalize the New HCP and permit renewal application is September 1, 2009, so all SHCAs will need to be re-signed or amended by then since all current SHCAs need to be submitted as part of the permit renewal application.

Action Item: Dave L. and Quinn will have a new draft SHCA available for partners to review prior to the winter meeting.

15. Update on Lands included

In the last HCP 6-month Review meeting the service agreed that in order to declare land included for coverage under the permit that a partner would only need to provide a map showing the land they want covered along with the total number of acres this represents in the new High Potential Range (HPR). Providing GIS coverage of the area will also be sufficient. There is no longer a requirement to provide line item legal descriptions.

Gary: Do we need to amend our lands included? Is it advantage to include as much of a Partner's lands as possible, e.g., other parts of the state? Or would this only extend the High Potential Range? Should each Partner shrink down the amount that each Partner includes in the agreement to lands just within the new HPR so that each Partner has less to survey"?

Carry Over Item: This issue will need more work.

16. Process to Update SHCA Appendix A. - Lands Included to be Consistent with New High Potential Range

- Discuss a process method and timing for all partners to follow.
- Discuss how to deal with coverage for a temporary work space.
- Decide who is taking the action, easement, and not purchasing the easement.
- Declare the land in order to make coverage clear.
- Streamline temporary permits.
- Jodi mentions that identifying and knowing whether or not there is lupine in the fall is difficult, and that pipelines have to be declared. There needs to be elbow room for the rights-of-way easements, with considerations that specifically address a staging exception, and emergency clause.

Decision: Table agenda item #16 until after the November HCP 6-month Review meeting, then add to the next IOC agenda.

17. Update regarding concerns on the pesticide product Intrepid

Ursula shared the following information with the committee:

The U.S. EPA is one of the federal agencies we need to comply with for the endangered species.

The product Intrepid (methoxyfenocide) used in cranberry and other agricultural practices has been shown to kill butterflies and other insects. According to EPA's Karner blue butterfly protection bulletin scheduled to be published in early 2009, Intrepid will have certain use limitations within a certain distance of the species in Wisconsin and Michigan.

In Wisconsin, two conflicts occur: 1. Fish and Wildlife's Incidental Take Permit allows the state's agriculture community including the cranberry growers to take KBB during the course of their legal farming activities. EPA's Protection Bulletin will publish enforceable use limitations for methoxyfenocid near Karner blue sites as mapped by EPA. 2. EPA's maps are based on dry soils similar to the original HCP potential range maps while the revised HCP maps include lands situated within 5 miles of actual occurrences of the Karner blues. Wisconsin's Karner blue recovery properties cover even less land.

We (University, FWS, DATCP, cranberry growers, others) are working on a compromise between EPA's maps and those currently used for recovery (ideally) or the KBB potential range.

Gary asked if this should be brought to the winter meeting. Dave suggested that we wait momentarily and see how EPA and Fish & Wildlife work it out. For now hold off until the spring HCP Review meeting.

18. HCP Conservation Fund Account Report

- Dave shares the status of the HCP Conservation Fund Account. Currently the account is at 0. Noting that the investment partners made toward recovery, namely the recovery statistician, provided a tremendous amount of assistance, beyond expectations.
- Current potential contributions to the fund: Dairyland Power may become the next partner required to submit the entry fee. Also, a telecom company has a pending Kbb take situation.

19. DNR HCP Staffing Plans.

Dave announced that with the current budget shortfall, HCP staffing needs have been put on hold as a result of a hiring freeze announced by Governor Doyle. He intends to pursue approval for an exemption for 2 LTE positions in 2009.

20. HCP Team Annual Winter Meeting – Review Agenda Proposal

- Successes of The 5-Point Plan: An update of the progress on The 5-Point Plan will provide a framework for what we have learned, what we are going to need to do in the next year to support recovery, highlight renewal steps, and offer a participation plan. The users guide, and participation strategy will be addressed in the agenda on Nov 2nd, by addressing the shifting mosaic and the goals for the next 10 years.
- The committee reviewed the rest of the agenda.

Decision: The committee approved the proposed agenda for the HCP Team 2009 Winter Meeting.

21. Schedule next IOC meeting

- Plans for the next meeting will include Dave providing the partners with a PowerPoint and various presentations.
- Gary states that he has concern over how to amend appendix A, and whether not it should be added as an agenda item.

- Dave assures Gary that Quinn can 'legal it up' and they can ask partners to help.
- Decision:** The next IOC meeting will be January 7, 2009.

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