

**Karner Blue HCP
Implementation Oversight Committee (IOC) Meeting
January 24, 2007**

MINUTES

Present: Matt Krumenauer, Joel Aanensen, Gary Birch, Bob Hess, Dave Lentz

1. Anti-Trust Statement

Given by Dave Lentz

2. Approve minutes from 1-9-07

A quorum was not present at the meeting and not all IOC members present on 1-9-07 submitted a comment response via email. Joel, Bob and Jody Gindt had not previously commented.

- Joel said he has no further comments and would approve as is.
- Bob also said he has no further comments and would approve as is.
- Jody was not present.

Action: Dave to ask Jody if he has any comments.

3. Review action items from previous meetings (see next page)

Items were briefly reviewed.

4. Review results of 1/10/07 meeting with FWS

A draft version of the minutes from the 1/10/07 meeting was distributed. (Comments/edits had not been received from the FWS prior to this meeting.)

Three items needing discussion and resolution were discussed:

- **How to apply the proposed Regulatory Range vs. HCP Implementation Range**

IOC feels we must have only one range. The range they feel is most appropriate is the 5 mile range.

Justification:

- The model data and particularly the partners' presence/absence data is more than sufficient to show where high probability of Kbb occur in WI. (per Ted Sickley).
- The partners' land distribution is significantly dispersed to demonstrate sufficient coverage across the WI Kbb range. (per Ted Sickley).
- There may be a lesser likelihood of some Kbb occurring beyond the 5 mile radii around EOs, but the effort to capture this information is not worth the knowledge.
- The areas beyond the 5 mile radii around EOs is mostly outside of BRZs and will not receive intensive management to feature and enhance (recovery) Kbb. If inside BRZs, this land will get preferential attention in the recovery planning process.
- Much of the area beyond 5 mile radii is fragmented and scattered portions of higher probability lands. These small areas may not be as sustainable and viable in the long-term without intensive management.
- The value of beneficial disturbance with consideration of Kbb (protocols) by new partners outweighs any loss of regulatory oversight beyond the 5 mile radii.
- If Kbb are found in the outer area of a 5-mile radii, the HPR will expand to include more high probability land.
- Having a regulatory range for some and a smaller HCP Implementation Range for the others (partners) is a double standard. This is potentially dangerous, not based on science and open to greater criticism.

- **Monitoring (preliminary inventory assessment):** Kbb/habitat inventory has been done for more than a decade. Its purpose was to gather data to determine where the Kbb range is in WI. The need for new partners and SM (200 sites/yr.) to learn where the Kbb range occurs is done. It is no longer necessary to continue indiscriminate pre-inventory by SM or POH across the entire WI range. What is more important is to focus on assessing biological recovery zones. Pre-management surveys will direct the application of appropriate conservation measures in a timely fashion. Partners, new or existing need only do pre-management surveys, if and where they may do something that would result in incidental take. Surveys done elsewhere (other than in BRZs) would only be a waste of time and resources.

- **Permanent Take - Definition?**

There continues a debate between the FWS and DNR over temporary take. The Service insists that temporary, complete removal of some habitat on a site, e.g. pipeline installation where the habitat will be replaced is traditionally treated by the Service as permanent take. Also the Service says that this type of take counts against the permanent take threshold of 500 acres/10 years. Dave contends that by any name, this is being treated as permanent take. The HCP and BO definition of permanent take does not include anything like what is being called temporary take.

- Short-term take: Is any activity that takes Kbb/habitat but provides a benefit.
- Temporary Take is short-term take ... that completely removes some of the habitat on a site, then by following the conservation measures in the habitat replacement protocol a better optimum quality of habitat is replaced; often more habitat than was taken. Gary offered the insight that temporary take can be on all the habitat on a site, yet Kbb can recolonize from elsewhere in the metapopulation. The I-94 rest stop was completely destroyed. The site had habitat, but no Kbb. The habitat restoration resulted in at least 100 Kbb occupying the site (count stopped at 100 Kbb). Permanent take is PT. Any degree of temporary take (100% of a patch or subpopulation site) is does not result in permanent take.
- Compensatory mitigation should not be negotiable for temporary take. Matt suggested the process use a check list to assure that all components of the conservation protocol are being followed in the project plan. This should be a standard protocol not needing negotiation.
- Permanent Take: For true permanent take compensatory mitigation is required. Why are 3 times the acres taken a magical number? Shouldn't partners get some credit for all the beneficial disturbance they do? For permanent take, partners are held to the same process, compensation and timelines as a non-partner.

The HCP defines permanent take as:

“Permanent take is an impact to Karner blue butterfly habitat, through land management or land use activities, that precludes Karner blue butterfly occupation. Such long-term impact involves taking that does not allow for the restoration and reoccupation of the site for a minimum of five years. Activities or projects that may fall within the definition of permanent take include, but are not limited to:

- ☞ *construction of roadways and parking lots;*
- ☞ *construction of buildings or structures and associated facilities;*
- ☞ *other construction or development projects that cover or replace the habitat in a permanent manner (at least 5 years), such as an airport or a flowage; and*
- ☞ *residential housing developments subject to subdivision plat (ch. 236, Wis. Stats.), certified survey (ch. 236, Wis. Stats.), or condominium (ch. 703, Wis. Stats.) approvals. [Note: This category does not include a permanent or second home and associated structures that are owned or built by the owner for his or her own use. This provision applies only to those housing developments approved after the date of permit issuance.] “*

Action: Dave to continue discussion with the FWS on the treatment of temporary take as permanent. This must be resolved very soon so the construction guideline for mitigation/habitat replacement can be written and approved before the February meetings.

- **Finalizing updates to guidelines/protocols:** Final updates and revisions to the User's Manual, Guidelines and Protocols must be completed for printing before the February meetings.

Action: Matt, Dave and Bob will make changes and formatting updates. Since the changes have already been approved, the IOC does not need to review the final documents again.

- **Responsibility Table:**

- Remove regulatory range
- Define difference (with examples) between minor maintenance/construction vs. major construction: e.g. DOT uses online vs. offline (existing roadway vs. new roadway).
Possibly list all minor maintenance and construction, and then major is everything else.

Action: Gary & Matt will list what is minor for roadways and utility corridors and combine. Send results to Dave ASAP.

5. Continued preparation for 2/21/07 HCP Team annual winter meeting

- **Decide breakouts**

We decided on only 2 breakouts: SM and POH. POH will have more detailed discussion on temporary/permanent take and habitat restoration/replacement guidelines and protocols.

- **Break out sessions - Topics to cover:**

- **Shifting Mosaic Breakout Group**

- How to update Lands Included
- New range. How to apply to property, how to get the information out to each partner, i.e. maps, GIS file etc
- (TAILOR TO GROUP) Go over the improved guidelines and protocols and discuss the implications and application for each partner, What additional information or materials would each partner like to have? I.e. do you need laminated copies, multiple binders or are you O.K. with downloading from the website? We need your participation to do adaptive management.
- Discuss changes to annual report and detail how each group will be reporting the various items now
- Discuss monitoring (inventory aka 200 sites) (no more pool sites)
- Clarify change to Changed Circumstances
- Open Discussion
- Recovery support role of partners: generate reason and things partners might be able to do.

- **Corridor Managers Breakout Group**

- How to update Lands Included
- New range. How to apply to property, how to get the information out to each partner, i.e. maps, GIS file etc
- (TAILOR TO GROUP) Go over the improved guidelines and protocols and discuss the implications and application for each partner, What additional information or materials would each partner like to have? I.e. do you need laminated copies, multiple binders or are you O.K. with downloading from the website? We need your participation to do adaptive management.
- Discuss changes to annual report and detail how each group will be reporting the various items now
- Discuss monitoring (no more pool sites) (what is a site? Linear segments)
- Repairs, maintenance upgrades vs. Construction (approval requirements?)

- Open Discussion
- Recovery support role of partners: generate compelling reasons and things partners might be able to do.

- **Contact those partners not represented at meeting (no RSVP)**

Action: Assignments were given for telephone follow-ups. Dave and Matt send updated invitation, agenda outline with some details. Also this email will include a lunch selection/RSVP.

6. Need to update HCP Directory and partners' staff roles in HCP for distribution lists.

The roles partners' staff play in the implementation phase of the HCP is different than when the HCP was being developed. Current roles need to be described and partners need to indicate who from their organization should be contacted for each role. It was agreed that this could be done after the winter meeting.

Action: Dave to develop a survey to send to partners after the February meeting.

7. Closing

- Summarize Action Items
- Confirm 2/20/07 IOC meeting: Meeting will be at 2:30pm to about 5:00 in Solon B (plenary session room). Purpose of the meeting is set up and preparation for the HCP Team meeting the next day.
- Evaluate this meeting:
The IOC meeting schedule has been 4 times per year, but the IOC has met almost monthly like in the HCP development years. Is this too much? Has it been worth the investment?
Members present agreed that it has been worth it when we look back over the last year and see all that we have accomplished.

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ACTION ITEMS FOR REVIEW (for agenda item #3)

**Karner Blue HCP
Implementation Oversight Committee (IOC) Meeting
December 7, 2006
9:30 a.m. -2:30 p.m.
American Transmission Company
2 Fen Oak Ct, Madison**

Minutes

Members Present: Dave Lentz, Bob Hess, Joel Aanensen, Matt Krumenauer, Ursula Petersen, Gary Birch, Jim Heap, Steve Richter (a.m. only), Joe Henry (recorder)

Guests present: Cathy Carnes, Ted Sickley

1. Review action items from previous meetings (see next page)

Karner Blue HCP - IOC Meeting held October 24, 2006

Action Items:

- Reporting Incidental Take

Action Item: Dave asked for each IOC representative to give an example of an area where intense management occurred that still support Kbb's.

Progress: No KBB examples were given.

New Action Item: Dave asked that examples be sent to him by the end of business 12/12.

Action Item: What is the definition of take that we will be using to define PT not short-term take?

Progress update: No progress.

- Proposed amendment to HCP/ITP to allow DNR to do audits on DNR lands (rather than FWS as it currently states).

Dave felt that the ITP & HCP are currently not completely accurate. DNR (Dave) audits partners including DNR properties. This is the Service's role in the documentation. The Service oversees the process and attends some audits to confirm the process. To make the documentation correct, Dave suggested amending them. In response to the published IOC agenda, Scott Swengel commented that he "*think(s) it is a bad precedent to have the DNR audit state-owned properties because it could look to outsiders like a conflict of interest.*" We agreed that the perception is logical. Jimmy commented that Scott's concern should be asked of the Service, not the DNR.

Action Item: Dave will put the question to the Service if an amendment to clarify that DNR can audit DNR properties should be proposed or not.

Cathy said the Service was comfortable with DNR performing audits of DNR properties.

New Action Item: Dave will draft a proposed amendment. *Post meeting suggestion from Cathy Carnes:* Instead of making this an amendment, just agree to a changed audit protocol (per the IA page 10, Provision 11.1 b(14)). This saves us from doing an amendment which requires WDNR to identify all clauses in the HCP to amend and then get approval from IOC to make the changes. WDNR could request the change of the Service via letter or email with rationale and Service could reply in kind. Dave agrees and will follow up.

- **HCP Winter Meeting 2007 – Schedule and Plan Review dates.**

Action Item: Joe to send out placeholder memo to the widest HCP distribution list and reserve a location for the event. DONE

Previous Actions Items FOR TODAY'S AGENDA ITEM #4

Update High Probability Range Map. (KBB Probability Model)

How should model be applied to HCP implementation?

IOC developed a draft table identifying roles and activities and reporting responsibilities for partners in the various geographic and Kbb probability areas across the Kbb High Potential Range. The table is draft and needs additional work.

Action Item: Dave to flesh out table to include NNLOH indicator criteria in addition to activities and reporting responsibilities. Distribute next draft to IOC members for comments.

Table emailed to IOC and presented at meeting. This table will continue to be fine tuned.

New Action Item: All IOC members to review and consider applications in light of the discussions at 12/7 IOC meeting; email comments and questions to Dave by 12/12/07.

Previous Action Item FOR TODAY'S AGENDA ITEM #5

Guideline Repackaging and Improvement Team (GRIT)

Action item: Joe to send out draft "users manual" template and any protocols revised since the last IOC review. DONE

- Timber Harvest (draft) protocol updates

Action Item: Bob is currently redrafting a revision to the protocol to delete "over snow-covered, frozen ground", and which will emphasize avoidance should be attempted to the greatest extent practicable no matter what the ground condition. Note: There was some discussion re: adding invasive plant control recommendations to the management guidelines and eliminating it from the protocols.

New Action Item: Joe to look at Protocols and Guidelines to see if this information has been incorporated.

New Action Item: Joe to re-include web-version caveat to protocols and guidelines as appropriate.

2. Define a Regulatory Boundary to replace HPR related to High Probability Range Map. (KBB Probability Model)

Some high probability land was identified outside the original High Potential Range (HPR). Partners may not have included lands under the permit in these areas. This involves less than 1% of the land in the HPR.

Action item: Dave to notify partners of the expanded land outside of the current HPR. Partners will need to identify lands that they want included in the permit in these areas and notify the DNR to assure coverage under the ITP.

Partner entity groups will be able to apply the new HPR directly with GIS, or by overlaying the ¼ section information on their ownerships. It was understood that no other boundary lines were needed on the map to assist partners in identifying the HPR on their lands.

Action Item: Dave to ask Ted to extend absence data to the tan portions of the model along with bar charts and/or other information and dialog in his "report" to the Service that provides justification for the elimination of the tan areas from the new HPR (regulatory range).

3. Guidelines, Protocols and HCP User's Guide

Comment and final approval to remove draft and prepare to share with partners

Dave and Matt opened the discussion by asking the committee to offer their opinions and ideas on how we can better arrange the information in this document to help partner staff understand how to implement the Guidelines and Protocols that apply to their specific work activities. Some suggestions:

- Add separate section in table of contents (TOB) for monitoring guidelines and protocols, e.g. regular monitoring, limited partner lupine monitoring, recovery monitoring (distance sampling).
- Add section in TOB for referenced documents; remove complete standard reference documents, i.e. Nectar Plants from User's Guide.
- Add definitions in the glossary for new terms, i.e., HProbR, HProbR map, occupied, and high potential habitat, etc...
- Keep the HPR name to simplify and eliminate administrative burden
- Keep the name SPA's but redraw them to take place of the proposed "biological recovery zones". Action: redraft definition of SPA to reflect BRZ
- Take page 6 out of the Pesticide Protocol as it is not applicable
- Add an Acronym List to the User's Guide with the glossary
- Add a conversion table for linear habitat into acres
- Add a contact sheet for HCP Coordinator, data manager, IOC reps, etc. to the web version of the User's Guide
- Create separate document "Policy & Procedures" for administrative guidance
- Notify partners of data sharing authority in Policy and Procedures, how do they get it?

Action Item: GRIT (Dave has lead) with IOC help to make necessary changes in bullets listed above.

Action Item: Dave and Cathy to look into SHCA implications of terminology difference between HPR and HProbR.

Action Item: Dave and Cathy to look at HCP-wide administrative implications of calling the new "biological SPAs" BRZs instead of SPAs. BRZ may be more accurate and less confusing than changing the definition and long understanding of SPAs to be something different.

Action Item: Dave and Jimmy to look at the implications of the changes being made to the HPR acres and conservation measures as to how this may affect NEPA and WEPA compliance. This information and DNR recommendations will be shared with Cathy. The Service will use this documentation to determine if NEPA requirements will be triggered. This needs to be done well before the winter meeting. Dave will make a draft list of HCP related changes to consider how the conservation plan is being changed and the implications of that, e.g., partner acreage, Ted's report, final map & justifications, conservation activities, i.e., protocols, etc.

The committee and Cathy agreed that the changes are part of Adaptive Management and do not likely represent a significant action requiring NEPA or WEPA actions, however this should be formally considered by appropriate persons at the FWS and DNR, and documented.

Action Item: Joe to look at Guidelines to see if invasive language is in up to date.

Action Item: Ted to turn on the absence data that overlays the high probability classes to provide further verification that Kbb's do not occupy specific high probability areas.

Regarding publishing the guidelines and protocols in the new format, Matt suggested we finalize the partners' logo and add color to it.

Decision Item: Gary moved to authorize up to \$1000 to upgrade the partnership logo to color; Jim seconded the motion, the motioned stands approved.

Action Item: Matt will take steps to get the logo upgraded. Ursula will supply Matt with an example and the name of a graphic artist.

4. Action Item from 6-month review meeting:

IOC to discuss the SAFE HARBOR issue to see what direction the partnership would like to take.

Action Item: Carry over the safe harbor topic until a 2007 IOC meeting.

5. Closing

- The 1/24/07 IOC meeting at Stoney Creek Inn is still planned for final review of all changes and items to present to partnership, to finalize winter meeting program plans and discuss breakout sessions and meeting assignments.

Action Item: Matt agreed to develop and distribute a draft presentation for roll-out of new HPR boundaries and “HCP User Guide” format to partnership and templates for entity group breakout sessions.

- IOC Meeting (set up and dress rehearsal) on February 20th will be at 2:30 p.m. at Stoney Creek Inn, Wausau.