

## MEETING NOTES

Cumberland Habitat Conservation Plan Steering Committee  
Cumberland County Art Circle Public Library  
3 East St., Crossville, TN  
January 17, 2013

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### ATTENDEES

Name		Affiliation
Eric	Brady	City of Crossville
Karina	Bynum	Tennessee Dept. of Environment and Conservation
Kevin	Dean	City of Crossville
Janet	Dowlen	Cumberland County Soil Conservation District
Dennis	Gregg	Obed Watershed Community Association
Randall	Kidwell	Individual Biologist
Doug	Little	Plateau Properties
Katherine	Medlock	The Nature Conservancy
Shelley	Miller	HCP Team (UT)
Teresa	Payne	HCP Team (UT)
Dr. Daniel	Reed	HCP Team (UT)
Rebecca	Schapansky	National Park Service
Gay	Stewart	Home Builders Association of Cumberland County
Chuck	Sutherland	HCP Team (TTU)
Samantha	Wyatt	HCP Team (TTU)

### MEETING GOALS

- Provide Steering Committee (SC) general updates on the HCP.
- Review draft Conservation Measures, and ask for SC's approval.

### WELCOME AND INTRODUCTIONS

- Teresa Payne (HCP Team) welcomed all attendees and reviewed the purpose of the meeting.

General HCP Update

Presented by Teresa Payne, CHCP Project & Outreach Manager

*Media: PowerPoint Presentation*

Teresa Payne (HCP Team) updated the SC on work that has been accomplished. Highlights:

- A WWTP committee has been formed. They are asking for CHCP support for a permit to increase discharge. We are working to find ways to address this within the CHCP document.

- We are working with Dennis Gregg's group to provide them with information for monitoring habitat for CHCP covered species and other species. This will help with the CHCP's monitoring efforts.
- We are also working on Mitigation, Monitoring, and Adaptive Management. We have developed a framework for Mitigation and are coming up with different alternatives. With Monitoring, we are figuring out the how, when, and where details.
- We have been submitting completed sections of the CHCP to USFWS for review to expedite the review process of the CHCP and to get their feedback. We like to have their initial review so that we know we are on the right track. We have received their comments on the Take estimates.
- We have revamped the CHCP website. We took comments from the liaisons and Outreach Team (OT) members and made it more interesting for the community and easier to read for others who do not know anything about the CHCP. Shelley (reviewed the new website)- We tried to include things that represent the community, aside from what the CHCP is about.
- We spent a significant amount of time to simplify the Conservation Measures (CMs) to make them easier to understand. We have not increased the requirements. They are in a form now that developers can read and know what they need to do. We started with the Permitting Partnership Coordination Committee (PPCC) and then went to the OT and had several meetings with each. Relationships were established with the PPCC, and members began to identify with the community relative to the CHCP.

Draft Cumberland HCP Conservation Measures for Development Activities  
 Presented by Dr. Daniel Reed, CHCP Conservation Planning Assistant  
*Media: PowerPoint Presentation*

Dr. Daniel Reed (HCP Team) reviewed the draft Development Conservation Measures (DCMs), and the SC discussed them after the presentation. Highlights:

- **DCM 1.1.:** Karina suggested inserting the term "excessive" in front of erosion because there will always be some erosion.
- **DCM Task 1.1.7.:** Doug- If you put a number out there, the information shouldn't be anonymous. I should know the details, if someone reports me. Teresa- The reason it's in there is to encourage those who might be afraid to make a report. Dennis- If it's not anonymous, you have to provide legal protection for the person reporting, if it's legitimate. Gay- Even if it's anonymous, there will be a record of the report somewhere. Doug- I just want it to be legitimate. Rebecca- Doesn't it depend on what happens after the report is made? Eric- We have a stormwater hotline that works well. We check for a problem, and if there is not a problem, then nothing is said.
- **DCM Task 1.3.2.:** Reworded to state "New or redeveloped reservoirs<sup>b</sup>, lakes, and ponds<sup>b</sup> require a permanent, vegetated buffer (averaging 60 feet and a minimum of 30 feet for waters with drainage areas greater than 1 mile<sup>2</sup>; a minimum of 30 feet for waters with drainage areas less than 1 mile<sup>2</sup>), as determined by the parcel boundaries. [...]"  
 Comments: Karina- These new regulations come from the permit for stormwater for

municipalities. It is the same for all waterbodies and is based on the square mileage of the drainage area. You can have the option of an average buffer: 60-ft with 30-ft minimum. This is for development and redevelopment. I am not sure what you plan to do with the parcel boundaries. Samantha- We included the statement about parcel boundaries so that what one landowner does in the buffer on his property will not affect what another landowner can do in theirs. Each landowner is only responsible for the buffer on their property.

- **DCM Task 1.4.2.:** Reworded to state “When clearing forested areas 1 acre or greater (with the exception of linear projects, such as utility lines and roads), 3 live trees (per acre) preferably [...]”
- **DCM Task 1.4.5.:** Reworded to state “Permanent, vegetated buffers will be an average of 60 feet and a minimum of 30 feet for waters with drainage areas greater than 1 mile<sup>2</sup> and a minimum of 30 feet for waters with drainage areas less than 1 mile<sup>2</sup>. Buffers will be measured from the outer boundary [...]”
- **DCM Task 1.6.2.:** Reworded to state “Use, storage, and handling of chemicals will adhere to EPA regulations specific to each product’s label.” Comments: Dennis- There are chemicals approved for aquatic use.

Q&A

<p><b>DCM Task 1.3.2.:</b> What if a developer buys lots on a lake and decides to redevelop them? Would he have to implement the 60-ft buffer?</p>	<p>Karina- Yes.  Kevin- What about one lot?  Karina- It’s part of a larger plan of development.  Kevin- What about buying 2 lots and making them one lot? When is the buffer triggered?  Karina- It is triggered by development and redevelopment.  Kevin- What if someone rehabilitates a pond?  Karina- If they maintain the existing function and use, then it will not trigger a permit.</p>
<p><b>DCM Task 1.4.7.:</b> We don’t know what the fees will be, so how can we vote on these?</p>	<p>Teresa- Fees will be identified in Mitigation, and Mitigation will be brought before you as well to be voted on.  Doug- So I can vote today and that will allow for the next step to determine fees, and then I can vote yes or no on the fees.  Teresa- Yes.</p>
<p><b>Definition for Pond:</b> Do we want people to have to buffer small ponds?</p>	<p>Teresa- If it’s not a significant benefit to the species, then we don’t want to impose that.  Dennis- Randall made a good point that not all habitats we are talking about are endangered species habitat.  Teresa- <b>Action Item:</b> We will find out what the benefit to the species is.</p>
<p>Do you have enough people here to vote?</p>	<p>Kevin- I would feel more comfortable if Mayor Graham was here to vote.  Rebecca- I would like to understand these better before voting on them.</p>

Draft Cumberland HCP Conservation Measures for Road ROW, Utility Line Easements, and Waterbody Crossings

Presented by Dr. Daniel Reed, CHCP Conservation Planning Assistant

Media: PowerPoint Presentation

Dr. Daniel Reed (HCP Team) reviewed the draft Road ROW, Utility Line Easements, and Waterbody Crossings Conservation Measures (CCMs), and the SC discussed them after the presentation. Highlights:

- **CCM Task 1.1.1.:** Added Aquatic Resources Alteration Permit (ARAP).
- **CCM Task 1.1.3.:** Added “or current CGP standards.”
- **CCM Task 1.2.1.:** Reworded the last sentence to state “The disturbed riparian area must be planted/seeded with native vegetation.”
- **CCM Task 1.3.2.:** Reworded to state “Use, storage, and handling of chemicals will adhere to EPA regulations specific to each product’s label.”
- **CCM Task 1.5.3.:** Reworded the second sentence to state “Undersized or improperly installed (e.g., incorrect orientation or slope) culverts, [...]” Comments: Dennis- If endangered species/species of concern don’t exist there, then we don’t need to worry about it being a fish barrier.
- **CCM 1.6.:** Reworded to state “Directional bore<sup>b</sup> is required for buried utility line crossings of all streams (excluding wet weather conveyances) when flow is present.” Comments: Karina- TDEC does not define streams as perennial or intermittent. A stream is a surface water that is not a wet weather conveyance. TDEC has a definition of wet weather conveyance. It’s in the municipal stormwater regulation. **Action Item:** Karina will forward the definition to Teresa to forward to the group. Dennis- If there is no water flowing after 7 days after a rain, then, it’s considered a wet weather conveyance.
- **CCM Task 1.8.2.:** Comments: Doug- When building a gravity sewer, it has to be right on the stream, and it will affect the buffer a long distance. (Refer to the last bullet.)
- **CCM Task 1.9.1.:** Reworded to state “The avoidance and minimization of impacts to potential forested habitats for the covered species will be discussed during the pre-application meeting between the operator and the local authority. The planning objective is to, where possible, avoid routing road ROW and utility line easements through large, intact forested tracts<sup>b</sup> where there are known occurrences of the covered species and/or their habitat. This serves to limit forest fragmentation and encroachment to the maximum extent practicable.” Note: The definition for large forested tracts was revised to reflect this change.

Q&A

<b>CCM Task 1.5.2.:</b> Regarding the sentence beginning, “Culvert design to ensure fish passage is different [...]” - Will we have	Kevin- The HCP will supply the data.
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data to know?	
<b>CCM Task 1.5.3.:</b> Could this database rank these areas?	Chuck- In the Take Model, we considered where we would expect Take to occur. You can use this to direct efforts for replacement.
<b>CCM Task 1.5.3.:</b> Is this task just for the local authority or for everyone?	Kevin- If it's on private property, the City would approach the landowner and propose a cost-share agreement to correct the problem. If the landowner refuses, then we would take it off the list.
<b>CCM Task 1.5.3.:</b> If there are no species upstream of a dam, then would you take it off the list?	Kevin- Yes.

#### Other

- Randall- Does this meeting allow outside input? Teresa- Yes.
- Randall- The problem is that it [the CHCP] is being proposed without input of voting members in the community. Kevin- There will be public hearings. Randall- I do not see it [the CHCP] happening. There is no incidental take on plant species right now, but if you go through with this HCP, there will be. You can go out now to a wetland on your property where white fringeless orchids are and snip them down or spray herbicides on them. Katherine- I disagree with your comment about the white fringeless orchid. It is illegal to take endangered species. It is a violation of federal law. [Clarification: This is true for private lands only when there is a federal nexus present (i.e., a federally funded project will occur on the property or a federal agency is involved with the project).] This HCP can provide a permit by which we can do the development we want to do and not be in violation.
- Randall- The modelers with this HCP have not put a boot on the ground. Chuck- That is not true. The data is based on occurrences. Randall- How old are they? Are they from the 1960s? Chuck- The majority of occurrences used are within the last 10 years to present. There are a few scattered references to occurrences which pre-date the late 1970's (the earliest recorded occurrence was for Purple Bean in 1915).
- Randall- The HCP started out with eight counties, and now it's down to one. Rebecca- HCPs are voluntary. Randall- You volunteer for us. Kevin- It is voluntary for the public.
- Randall- You are doubling up on what they already have to do now. Dennis- It is not doubling up. What is in the HCP already exists in current regulations. Randall- Then why do it? Dennis- To streamline the permitting process. Randall- What about leaving 3 live trees? Kevin- You have a choice with the HCP. You either leave 3 live trees or hire a biologist to do a survey. Without the HCP, you always have to hire a biologist to do surveys.
- Doug- Randall is talking about private property rights, and there are more and more laws that are taking that away. Rebecca- This HCP has to be announced in the Federal Register for public comment. Teresa- There is enforcement of the Endangered Species Act [ESA], and that will not go away.

- Randall- Why are you making the City and the County police officers for FWS?  
Katherine- You can have FWS come in and enforce the ESA and do it their way and not have a say. Or, with the HCP, you can negotiate and have a say in how the ESA will be enforced. The primary purpose is so that people who are most affected by the potential enforcement of the ESA will have a say.
- Randall- When federal money is involved, that's when you have to address endangered species, not when you are currently on private land. [Clarification: This is only true for plants on private lands.] Rebecca- It is a voluntary document, and it gives citizens some mechanism to reduce liability. It allows a certain amount of take, and if you are following along with the Conservation Measures, you are covered. It gives assurances where no federal nexus exists. Katherine- You can continue to fly under the radar, but there are a lot of environmental groups out there that will be digging things up, and eventually things will change.

**ADJOURN**

**ACTION ITEMS**

<b>Responsible Party</b>	<b>Item</b>	<b>Deadline</b>
HCP Staff	Find out what the benefit to the covered species is to buffer small ponds.	ASAP
Karina	Send the definition of wet weather conveyance to Teresa.	ASAP
Teresa	Forward the definition of wet weather conveyance to the SC.	ASAP

*The next SC meeting is scheduled for May 16<sup>th</sup> from 1-4 PM Central at the same facility (Cumberland County Art Circle Public Library on East St., Crossville).*

*2013 meeting dates: May 16<sup>th</sup> and September 19<sup>th</sup>.*