



**Meeting Minutes
Florida Beaches HCP Steering Committee
Quarterly Meeting
WebEx
12 September 2013**

Steering Committee members present: Kipp Frohlich (Chair; designee for Thomas Eason), Danielle Irwin (Co-chair), Julie Wraithmell, Gary Appelson, Blair Witherington

Others present: Jennifer McGee, Tom Ostertag, Bob Ernest, Sally Davenport, Robbin Trindell, Gene Chalecki, Lisa Robertson, Amy Knight, Kim Colstad, Carol Knox, Kelly Roberts, Rebecca Pfaller, Elizabeth Fleming, Jimmy Sellers, Brian Powell

WELCOME AND INTRODUCTION

KF I'd like to welcome Jennifer McGee, our new Beaches HCP Coordinator. We're so glad to have you on the team

JM Thank you. I'm very happy to be here.

KF She's going to be doing a road trip very shortly, going to south Florida and trying to meet up with a number of folks. Danielle, as co-chair, do you have any opening remarks you'd like to make?

DI Just that I'm really glad to be with you all; I think I've missed the last two meetings. So I'm happy to be here and back in the loop with the Steering Committee, and definitely grateful to have Jennifer on board, as well.

KF With that, I'll turn in over to Tom and Jennifer to go over some of our early parts of business.

TO Jennifer sent out last week the minutes from the last Steering Committee meeting, but I don't think if we have a quorum to approve them.

KF Are there any comments of changes to the minutes? (no comments) Then, we'll keep moving on with today's agenda, and ask if there's any additional items you'd like to add to the agenda.

JM For today's agenda, we have some updates on the contracts, some chapter updates, and then we also included chapter 14, which will be pretty much the bulk of the discussion. We had scheduled that WebEx for a couple weeks ago, but due to a lack of participation we decided to hold off and address it at today's meeting. And then we have two presentations that will go over chapter 10, Minimization Measures.

STAFF REPORTS

Staff changes

JM Regarding staff changes, I officially started July 19. I was working from Gainesville for the most part and commuting to Tallahassee a couple times a week. I tried to attend some of the meetings and have spent the last month and a half trying to meet up with all the Working Group members face to face, and I'm still working my way through meeting up with all the Steering Committee members. I've been reading a lot, trying to get up to date on everything that's been done over the past five years. So that's what I've been up to. I think I'll turn it over to Sally now who's going to tell us about the contracts. We did have a little bit of delay this summer in terms of renewing the subcontracts, but Sally can give you more detail on that.

Contracts and Gantt chart

SD We did have about a month delay in finalizing the contracts for phase 2 of year 6, primarily because of concerns with DEPs contract with a few people and needing to do things a little differently than in the past as far as information they needed on our subcontracts. We have all that straight and exactly what we need now. In order to avoid future delays, we're initiating regular meetings to discuss contracts and work plans for year 7. We've also agreed to keep everything on schedule as far as deliverables to DEP. With that I'll answer any questions.

DI Do you have a Gantt chart up on the webinar that we're reviewing at this point?

SD We don't, but we can probably get that up.

DI The reason I ask is because I am preparing to meet with Larry Williams from USFWS later on this month with an update in terms of our progress on the HCP. I'll be relying on the Gantt chart to really illustrate where we are on that. And another question I had on that is whether or not when we made our application to USFWS if the Gantt chart was part of it, because I was surprised that they approved an additional year of funding yet he was asking what the status was, because I would have thought that would have been part of that application.

- SD We can get you a copy of the Gantt chart before your meeting on September 24.
- GA Danielle, the minutes from the last meeting are pretty interesting because it goes through the timeline and things. But we also talked about the need for some sort of simultaneous track that the USFWS can implement for an expedited review of the approval process. At some point I think the Steering Committee should discuss that and flesh that a little more, and maybe that's something that could also be discussed with the Vero Beach office. HCPs can take years to go through the USFWS approval process and it would be good to fully explore some expedited track for that, separately from the HCP process.
- DI Gary, I'm sure that will be part of the discussion.
- TO I just want to mention that each of the grant proposals has a summary of what has been accomplished to date. So, the Service should have that.
- DI Yeah, I was aware of that, and that's why I was surprised that that was one of the topics of discussion, but I understand that it's more along the lines of what Gary was getting at, that they know where we are in the process, but it's not happening fast enough for them. So they're probably hoping for some interim plan.
- BP I can speak to that a little bit. With each contract renewal and grant segment, a lot of that is done at the regional office level and through the regional HCP coordinator, so it's not a process that Larry is directly plugged into. So that's kind of why he isn't directly familiar with where we're at. I'll also be putting together some handouts for that meeting you're having that will lay out what's in the Gantt chart. I met with some folks at Coastal Tech this week to go over that and have updated information on where we are and our timeframe.
- DI That's good to hear. If you can get that to him in advance of the meeting, that would be great.
- BP That's my plan.

Geodesign updates

- JS I have a couple of updates that Mike sent to me, and I'd be happy to share those on his behalf. He's been updating the take numbers on two fronts. One is refining the future projections of CCCL activities, and the other is updating the sea level rise anticipated impacts. On CCCL activities front, what he has been doing is using some data that Coastal Tech developed, which was looking at different activities and taking a sample of the activities from aerials to see what the average size of your condominium is or your average single family house or your average driveway, and using those averages and he looked at them on both a regional and parcel size basis to see what the variation was, and

is using those numbers to project activities into future. So it will result in a much more accurate analysis of take looking into the term of the ITP.

On the sea level rise front, he used two new pieces of information to reanalyze the sea level rise impacts. The first is LIDAR data. He used 15 meter LIDAR data pixels to provide much more accurate elevation information over the coastline and also used the new IPCC sea level rise scenarios to come up with some more accurate losses due to sea level rise. Just to share a number, on the sea level rise he says his bottom line finding was about 9% loss of beaches above mean high water over the course of the ITP under the 4.5, which is apparently the moderate climate change scenario.

JM Thanks, Jimmy. Mike did mention that he plans on doing another presentation at the December Steering Committee meeting.

JW I've shared this with some of you, but just wanted to mention again that you may have seen news reports that Google Earth partnered with Visit Florida to do street views of all of the sandy beaches in Florida. It seems like there is going to be an absolute deluge of data that could be available for remote ground truthing. I don't know if there's a way we can plug into that somehow, but it may be able to help us fill in some of the gaps.

Other staff updates

JM Chapter 5 – I know Kat mentioned this is by far one of the largest chapters we have. It has gone out for one peer review, and we're hoping to get it out for a second peer review, but we're still going over it for more edits. There were a lot of comments from the first peer review, so we want to make sure those are adequately addressed before sending it out again. We should definitely be getting that out for a second review before the next Steering Committee meeting.

KF How does peer review process work in terms of selection and distribution? Who are these peers?

RT We're using the scientific committee and also in house experts, and then they would suggest additional people – academic or outside peer reviewers – that we could then send the documents to. Then we were running into reviewer fatigue. So there have been some challenges, as there always are when you're trying to get peer reviews done and done on time. So now we're going to in house experts first, then to scientific committee, then to academics, resource managers, other people with expertise in those species.

KF So that speaks to expertise in species. How are we going to decide on different chapters that have a more economic impact or those that might speak to more geology, geography and engineering. How will that work? And also, it sounds like we have our own scientific committee that are reviewing, and I don't know if that's considered peer review if it's an internal committee. I'm careful about how we would portray it to the world. Is there a process for picking folks?

- RT It is challenging, and I think that within the agencies we haven't had a lot of success. I reaches out to FWRI, a librarian. I reached out to USFWS up in West Virginia to say how do we do this? One answer we got is contract it out to an editor. So that's one thing we've been discussing is getting an editor to assist us with this. Now, we focused on the species accounts. There was some discussion within the working group, and I think a little confusion, whether the other chapters would be peer reviewed, and we need guidance, I think, from the Steering Committee on that.
- BE We have had other peer reviews on non-biological chapters. For example, the plan area, which has climate, geography, all sorts of things, that went out for peer review to a variety of specialists. As far as scientific committee, I think there's a misunderstanding, the original scientific committee wasn't agency staff; it was external people that we assembled to go over this stuff.
- RT Right, and they were actually not very responsive, and that's when we decided to step back and review who's on the scientific committee and what role they play.
- TO And we do have our eye to what Kipp said could be a potential problem. Part of the problem is that a lot of the reviewers, the experts, are in the agency. We have tried to address that and make it more transparent and get people from outside the agency. And as far as some of the other chapter, say economic analysis, we're just going to have to beat the bushes and start talking to people in economics departments at the universities and that sort of thing.
- JW There are certainly challenges. Your problem is that you're getting reviewer fatigue, and it's hard to ask one person to review multiple chapters. The opposite side of that coin is it's such a complex process, you kind of want the same reviewer doing it all the way through, because they're building their knowledge. I wonder if there's a way to compensate people for their time without prejudicing their review. You'd have to write it in such a way that it was clear that you're looking for unbiased comments. But that might help with the fatigue.
- RT Paying them would definitely make a difference. I just don't know if that was in the contract.
- JW I don't know if it is, either, and it doesn't have to be a lot, but it does help to make up for people's time. I'm sure a lot of the people have more than full time jobs these kinds of reviews aren't a part of the scope of their job, so they end up doing it at night and on the weekends.
- JM That's definitely something we can explore with the working group. Our next update is chapter 10 – Minimization Measures. Bob and Sally will be discussing this a little later. I know Kim has been working with Melissa Tucker and Nancy Douglass to get edits for

this chapter, and we're working on incorporating those. I'll defer to Bob and Sally for more detail on that. With that, I'll turn it over to Bob for the chapter 14 presentation.

CHAPTER 14 – CHANGED AND UNFORESEEN CIRCUMSTANCES

BE This is the WebEx presentation that we had planned for several weeks ago. This is on changed and unforeseen circumstances. Before I get too far into it, I just want to refresh everyone's memory about some of the issues that we've brought before the Steering Committee in the past and have that as a springboard for getting into these changed and unforeseen circumstances. The first has to deal with the term if the ITP. As you recall, we presented the Steering Committee with the pros and cons of a short, an intermediate and a long term ITP, and ultimately we settled on 25 years. Although our ability to project changes over the next 25 years is certainly going to be much better than it would be if we had a longer term permit, there are still a lot of uncertainties here. So we need to plan in this document exactly how we're going to deal with those things.

I want to also distinguish the changed and unforeseen circumstances from adaptive management. Sometimes adaptive management is seen as a catchall for a way of solving things that we can't really get our arms around right now, and that's not really what the intent of adaptive management is for. Adaptive management is focused on our goals and objectives and how well we're doing in meeting those. The biological goal, which is addressed in chapter 2 of the HCP is 'to implement a statewide conservation strategy that sustains the basic life histories and ecology of all covered species within the Plan Area and supports the conservation goals of Federal recovery plans and state management plans for those species.' So, adaptive management is looking at how well we're achieving that goal. There are several metrics that cascade down from that goal, and those are listed here: maintain and improve the quality, quantity and function of habitat; minimizing impacts; adequately mitigating for unavoidable impacts; and making sure our species persist in the Plan Area throughout the term. We will have metrics that will be assigned for each of those things. We will monitor to see how well the plan is performing. And then we'll have very specific plans of action if we fall short of meeting our established benchmarks. So that's adaptive management, and that's another chapter of the HCP.

Now, changed and unforeseen circumstances are looking at things that could change over the term of the permit, other than those that are associated with the performance of our minimization and mitigation measures. And then we'll develop a response to those changed circumstances with the USFWS – by we, I mean the Department will. One of the things I wanted to point out is that it's unlikely that many of us will be around 20 years from now, at least dealing with the FBHCP, so there's going to be transition that goes on. And the better that we're able to articulate what responses we'll have when we do have a changed or unforeseen circumstance, the better off we're going to be. That way nobody has to interpret what our intent was. Now, there will be a stipulation in the plan, and that's in chapter 15, of the Department's attorneys or legal offices being able to

provide the interpretation or stipulate if there's uncertainty about what the intent was, who is responsible. But the better we can try to identify what could change over the course of the permit, and say exactly how that's going to be dealt with, the better off we'll be.

I've listed some things that could occur over the course of the permit, and those are listed here: changes in the protected status of covered species; actions or conditions that may affect the basis of the USFWS' 'no jeopardy' opinion; the absence of legislative changes that we're going to need to implement the HCP; changes in statutes that could affect covered species or the ability of the Department to implement the HCP; expansion/abridgement of the CCCL program; reorganization or reassignment of the HCP responsibilities within the Department; delegation of regulatory authority from the Department to other state agencies or local governments; or substantive changes in the metrics that we used originally to estimate take. I'd like to point out that it's unlikely that many of these things are going to happen, but some will, and we want to be assured that we're prepared for that.

Changes in listing status – We have, as you recall, 11 current species that are listed under the ESA. We've got one that's a candidate for listing, and then we also have 7 potential candidate species. The minimization measures are going to be developed for all of those species, and those are going to be implemented at the time the permit is issued. We will also develop mitigation for all of those, but we don't have to implement those for anything that isn't already covered. In other words, really there's no formal take for species that aren't yet listed under the ESA. So at the time that one of our potential candidate species becomes listed, then we'll develop an implementation schedule and we'll update the plan to make sure that mitigation is implemented in accordance with the schedule. Another scenario is that we might have another species that isn't among those 19 in the plan, and what happens if that becomes listed? Again, it's unlikely, but it could happen. What the Service will do is they will put an ad in the Federal Register indicating their intention, or at least consideration of intent, to list. And when that occurs, they'll notify the Department so that we can put this into action.

What we have developed in this chapter, and in concept, is what is called an intergovernmental panel (IGP), that we speculate would have DEP, FWC and the USFWS and potentially other members as well. And they're going to provide the oversight, regulatory, administrative and scientific oversight of plan implementation. Should one of the species that's not covered under the plan be listed or be proposed for listing, then the IGP would convene and determine if we're going to have any take of that species. Is it in the plan area? Is it something that CCCL activities are likely to impact? And if so, how adequate are existing minimization and mitigation measures to protect that species? And if they're insufficient, then we'll have to develop at least interim minimization measures to try to prevent additional impacts from CCCL program. Also, we'd develop a timeline for amending the HCP to include those species. One of the issues in that brief document that we sent out as needing feedback is whether or not we need to solicit for public comment for including additional species in the plan after the

ITP is issued. That was a point that Kat brought up, and I don't know if anyone has any very strong feelings one way or another, but that's certainly something that we're going to be looking for your feedback on. And then once all these things have been done, the Department will make formal application to amend its ITP to include this new species, and that would occur within 30 days of official listing. It's a long process to list a species, and in talking with Brian at USFWS it does seem that there's sufficient time from the time that the Service initially advertises for a new listing, to the time that species is officially listed to go through this process and be prepared to submit an application for a permit amendment. And in the process, the federal government wouldn't take any action for any harm that would occur as the amendment application is being processed.

On the other end of things you could have some of our covered species could be delisted. Here, we would want DEP to engage the USFWS and see if we need to change the HCP or amend the ITP. It's possible that some of the minimization or mitigation measures that we've incorporated could be eliminated. However, we also have to consider the umbrella effects of those. Some measures that we have in place are not just for a single species, they're for multiple species, and if that was the case you couldn't eliminate those. Again, the IGP would be involved with this and we'd amend the ITP as appropriate.

This 'no jeopardy' opinion, basically the Service is saying the issuance of the ITP is not going to affect the continued existence or recovery of the species in the wild. And if they could not reach that conclusion, then they would not be able to issue the permit. So, what if things changed over the course of the ITP, and all of a sudden that no jeopardy opinion is no longer valid? Well, we're going to be looking at that over the course of the permit, and we're going to be providing them with data, and the IGP with data, to assess plan performance. We'll have annual reports that will talk about our progress in implementing the plan, how effective our programs are as the data come in. And then every 5 years there will be a formal review with the Service to go over these things, and basically go over if the plan is working and ensure that none of the covered species are in jeopardy. And all of this is in chapter 15 – Plan Administration and Implementation – and we have in that chapter, which you haven't seen yet is have a technical coordinating committee that would look at all this data. So one of the considerations for you today, also, is should that be the same committee as the IGP? A little bit more on the annual reports – the first one's due March 31 of the second full year after permit issuance, and the first 5 year review will be following submittal of the fifth annual report.

If, during any of these reviews, there's any indication that any certain species are in jeopardy of extinction, there would be certain steps that would be taken. The Service would notify the Department, there would be species review, and it may be that there are certain activities or geographic areas that we may have to modify the CCCL program to ensure there aren't any more impacts. There's going to be constant communication between the Service and the Department throughout this whole process. We have envisioned an HCP coordinator in DEP that would be responsible for implementing the plan and administering the ITP.

There also could be changes in implementation responsibilities. Right now we have the Water Resource Management Division responsible for the CCCL program. If for some reason those responsibilities got shifted somewhere else, and reading the minutes from the last Steering Committee meeting, it's unclear where exactly this is going to be administered from, but we will specify that in the plan before we submit it to the Service. If there are changes to that, we just notify the Service and we update the plan to reflect that. We would also want to address any effects the implementation of the plan would have on the ability to comply with the ITP. If there are going to be necessary changes, there are two steps for doing that, either administrative or formal. Administrative changes are pretty simple to do. You basically just communicate with the USFWS and say we want to change this procedure; it's not going to affect the performance of established minimization and mitigation programs. We do this all the time in other HCPs. In Volusia County, for example, they're requesting changes to the plan that aren't going to affect the ability to protect covered species at all; it's just more or less administrative types of changes in procedure. But if there's something that could affect the amount of take that's been authorized, then you would have to have a formal change to the ITP, which involves public review and much more lengthy process. And then any changes that would occur would be incorporated into the next plan update, which would occur every 5 years. The reason for these plan updates is you have these administrative changes that happen over time, and as that timeframe from ITP issuance extends out, what you're doing on the ground doesn't reflect what's in the HCP anymore.

There could also be changes in CCCL regulatory authority – it could be abridged, expanded or delegated to someone else. At that point the Department would notify the Service within 5 business days, determine how that change is going to affect plan implementation and ability to comply with the ITP, and any changes would be incorporated into the next plan update. Under abridgement, it's basically saying you're not going to regulate beach cleaning, for example, anymore. Well, we need to assess the extent to which minimization and mitigation measures could be eliminated as a result of that change. If you expand the program to include things that are not currently regulated, then you've got to go through these steps and find out how much take would occur because of this new activity. Or if we've expanded the geographic area of the plan area, we'll need to assess what additional minimization and mitigation measures would be needed. And these would require a formal amendment to the plan if we thought that take was going to increase as a result. Under the ESA there is the ability for a permittee to delegate or transfer a permit to another party, either partially or fully. We would have to assess if that third party is able to implement the plan and comply with the terms and conditions of the ITP. Again, all of this done in consultation with the USFWS.

This is something that I overlooked when I was putting this chapter together, so you didn't see this in here. We dealt with what would happen if there were changes in existing statutory authority, but didn't consider the impact of what happens if we aren't able to get the statutory and rule changes that we're proposing that are needed to implement the plan. We're going to outline what all those changes are in chapter 12, but if we're unable to get those things, what will we do? We understand that any changes

needed to authorize the Department to alter its program in terms of the species that it considers and reviewing impacts and mitigation fees and any of that sort of thing is going to be a lengthy process. As I was looking at the Steering Committee minutes from the last meeting, I did see that there was a rather extensive discussion on how and when we need to initiate those legislative changes. And it seemed like there was certain consensus that we can't really nail it down too much. We're going to be able to do a little groundwork up front, but until we know exactly what we're proposing, there's not a whole lot we can do. This is going to have to go to the Secretary at DEP for final approval before it goes to the Service, and there may be certain things that are going to be excluded; there may be internal legal issues that have to be resolved. So there could be changes to what the final product is going to look like, and it would be premature to try to initiate those legislative changes before that's finalized. I'm assuming that this would begin at the time that the HCP is submitted and the ITP application is submitted to the Service, but we're looking for your feedback on that. There will be an implementation schedule in the HCP that will say when we expect to have certain rules in effect, and the ITP is likely to be conditioned on adherence to that schedule. And again, all of this will be negotiated with the Service. We'll see how well we're doing in meeting that schedule in the annual report, and the Service and the Department will look to see if there are substantial deviations from that schedule.

This is where it gets a little fuzzy. What if the Department doesn't get the authority it needs to implement the plan as it is proposed to the Service? We could possibly amend the schedules if there's been a good faith effort by the State to do the authorizations we need, and it's just a matter of timing, and we could continue to implement those programs that are currently authorized. If there's not good faith, take authorization could be temporarily or permanently rescinded or the ITP could be revoked. These are all issues that require further discussion.

Finally, changes in some of the metrics that we used to estimate take. Basically we're going to be tracking the amount of take that's occurring throughout the duration of the permit for each activity group. So we'll have a ledger of how much cumulative take to date there has been. But, initially we're not going to have a very good record, so we're projecting how much take is going to occur. However, what if our estimates are way off the mark? We don't expect that to be the case, but what if they are? We need to periodically look at those numbers we used and see how they match up with real world numbers. Every 5 years the IGP will review sea level rise estimates that are prepared by the IPCC and we should be somewhere in between the best and worst case. If we're way outside the worst case scenario, that's cause for concern. Same with climate change. Again, every 5 years the IGP will review those effects. For example, one of the things we want to look at is even now it seems as though the sea turtle nesting season is becoming a little bit longer; we're having nesting into November now, which differs from the formal nesting season that's stipulated in rule. So we need to look at that and decide if we need to adjust the time of year when some of these minimization measures are in effect or change the timing of when things can occur. Same thing with rates of erosion. We've projected what those are going to be, and what we're proposing in the plan is that

those are revisited and re-estimated using the same methods that we used every 10 years. We can use that cumulative take ledger against some of these things that we may have underestimated. And if it doesn't really have an effect on the amount of take that's occurring, then it's a nonissue. However, if we're accumulating much more take than we projected, and it's because we grossly underestimated one of those things, then we need to take a hard look at that and determine how we're going to proceed. And if for some reason our metrics are so far off and take is increasing to the extent that jeopardy could be in effect, then we'll follow the same procedure that I outlined before for dealing with changes in the listing status.

So those are the changed circumstances. The unforeseen circumstances are somewhat different in that these are really off the wall sorts of things. All the other things that we've talked about are things that we can reasonably predict could happen. These are things that are really out there. So we prescribe exactly what would happen if one of these were to occur. Volusia's permit went into effect in 1996, and we've had a number of changed circumstances, but never an unforeseen circumstance. So the first thing we want to look at is if the circumstance has a negative effect on the plan area, the covered species, the ability of the plan to achieve its biological goal, or the ability of DEP to implement the plan or comply with the ITP terms and conditions. If there were problems there, the Department would notify the Service within 30 business days, describe the nature of the circumstance, where this impact has occurred, and whether it's going to impact covered species. Then the Department would meet with the Service and other affected parties within 10 days of receipt of that notification. I envision that if there's a feeling that this circumstance is going to majorly affect the plan and its ability to achieve the biological goal or the Department's ability to implement the plan, then we need some additional information to see how we want to proceed. So the IGP would meet to see what kind of information we need, how that information will be collected, who will collect that, what the schedule for that is, and then some sort of reporting. Based on that information, an action plan would be developed to address that circumstance.

I realize I've gone through that pretty quickly, but you should have had that chapter 14 draft to review. So I'll turn it over to Kipp to begin discussion.

- KF Thanks for that report. I'm wondering if we're expecting some increased comments or written comments from DEP. A lot of the earlier parts struck me as some types of semi-legal requirements that have just happened or will happen. Is that something that you're reviewing internally?
- DI I met with some staff on chapter 14 and have some concerns that I can discuss with the Steering Committee. There are number of obligations that this puts on DEP and one of my biggest concerns is the funding source for it. I think everyone in the room understands that our funding is guided by the legislature and, and we don't have control over it, and it changes year to year. As an example, for items such as the shoreline erosion rate, we have a survey team that collects that data around state in areas where we don't have nourishment projects. And in recent years, our survey staff has been cut in

terms of staff numbers, and the funding for that has been cut as well. So I'm concerned about the ability to uphold these responsibilities when the predictability of whether or not we'll have money to actually perform them is variable. After discussions today, I'll be taking this information back to brief upper management and see if we'll be submitting formal comments or how we'll handle moving forward on this chapter.

- BE One thing I would throw out there on the funding issues, which are very realistic – we started talking about this and what the burden would be on that. I think Gene and Fritz were very concerned about that. We talked about how often this should be done, and ultimately the work group settled on every 10 years, then it would be required twice during the term of the permit. I think Coastal Tech's procedures for doing this for the take estimate would just be mimicked. With funding being allocated through the HCP program, in other words we would build into our budget for that sort of thing.
- DI Well that would certainly give a little more predictability, depending of course on how the HCP budget is established. In terms of the procedures that Coastal Tech is developing, I do know that my coastal engineers on staff routinely use the data that's collected on shoreline erosion and create these rates, so I'm hoping that there will be coordination between Coastal Tech and what the state process for doing this already is, so that we'll have consistency. If we change processes now, the data may not be relatable in terms of the history of what's been going on with our shorelines.
- JW Along the lines of appropriations, I was thinking that appropriations should be included in those changes in regulatory authority because it's one thing legislatively for the agency's authority to change, but implementation is affected if their authority is left the same but they're defunded. I was interested to hear you talk about including the lack of statutory changes as something that would be considered after the fact. At previous meetings we've discussed that cart/horse conundrum and talked about it might be appropriate for the Service to provide conditional approval of the HCP to give the legislature assurity while they're considering the legislative changes. But at the same time would not be giving the state full assurance of a fully approved HCP until those statutory changes are in place. I guess I had assumed that the plan wouldn't be fully approved until those changes had been made, period.
- BE One of the things on plan approved – basically, the trigger will be ITP issuance. I don't see benefit for partial approval. The permit is either issued or it's not. They could perhaps not authorize take coverage for certain species until statutory changes are in place. But that conditional approval, I just don't understand how that could work.
- JW I think there will have to be some communication between the Service and the legislature saying we intend to approve this HCP and issue the ITP once the statutory changes are made. But I'm concerned about what we're suggesting here, that the Service would issue the ITP before statutory changes are made. I don't think the Service can have any confidence that minimization and mitigation will happen without those statutory changes.

- DI I'm grateful for this discussion because I share that concern and was wondering if there's some way we can have a phase 1/phase 2 or conditional approval and full approval in terms of what we do have current authority under 151 to regulate, versus what we don't have statutory authority for so that once we get approval from FWC we can implement right away. I would hate to see the entire plan held off on implementation because of the lack of full authority. Getting 161 modified with the legislature has historically been a hornet's nest, and I'm concerned with the amount of time that may take. So why would we want to hold up implementation of the entire plan, when we currently have the authority to do these types of actions and regulations, and implement the plan for sea turtles while we're waiting for the other species to be added. I'm also very unclear as to how 161 would be changed to allow us to regulate for species that are not even listed yet.
- BE This is my personal place holder for how to deal with these. As I see the permit, the way it could work is you get an ITP that would authorize take coverage for sea turtles, but then you'd have to amend the plan to get take coverage for the other species when the statute changes. But there are other aspects other than the species. It's also collecting mitigation fees. The whole program is going to undergo fairly substantive changes when you're implementing the plan, and I get a little concerned about how you can go about that piecemeal. I understand the conditional authority that Julie was laying out. What you're looking for is to get a permit that allows at least some things to go forward but not others.
- BP This has been a source of questions for me as well. The Service doesn't issue conditional approvals, whether it's in Section 7 or Section 10. So the idea I have is if we're not going to be able to have the statutory changes done prior to ITP issuance, and I agree if there are statutory regulations in place now that allow DEP to act on certain species, it would be a shame to hold up implementation of that part of the ITP to wait for other species to come online. So it is possible that we issue an ITP that specifically covers sea turtles with a caveat that says the permit will be revised upon statutory changes. This is going to be quite a lengthy discussion that will happen at a much higher level than just upper level management in Vero. This will go to a regional and maybe even headquarters level decision.
- GA There's also a potential avenue through an MOU between DEP and the Service to address sea turtles. I don't know if that's been explored; I don't have much insight on it, but I know it's been talked about with other HCPs. So that may be one avenue to pursue. The statutory changes that Bob alluded to are somewhat comprehensive, but there are limited statutory changes that may be easier to bring about more quickly that would facilitate expanding DEP's authority without having to go through all the statutory changes to implement the entire HCP. For example, 161.053 says the Department may condition the nature, timing, and sequence in construction of permitted activities to protect turtles. So if that was just expanded with a few more words, then DEP has the authority to condition permits for other species. And that's predicated on the Marine Turtle Protection Act, so you could have a similar act for different species. That would facilitate some implementation of the plan without complete implementation of the plan through the

multiple legislative changes. Also, at some point in this process, I think it would be good to have upper level USFWS folks engaged in this process, so that it's not all going to be discussed at the very end. There needs to be some parallel process to facilitate approval of HCP that is specific to the USFWS. So we're not waiting until the end to start this multi-year approval process.

- JW I agree with Bob that the activities that would be entailed in the HCP – the minimization and mitigation measures – we're going to see overlap across species, so the ability to tease out one taxon from that will be, I believe, problematic. Beyond that, I know DEP would prefer to see in writing that they have authority to consider those other species. Our argument has always been that FWC has constitutional authority over wildlife and DEP's activities are affecting habitat, and it affects wildlife as a result. So working in partnership with FWC, they have an obligation to not have their permitted activities result in take, regardless of what they've been told to do in legislation. I would hate to see those species lost in this process, and I'm a little concerned we've spent 5 years planning for all these species to be covered species and now there's conversation about pulling back, and that to me is a reversal. And finally, I think there's going to be a whole quite of legislative changes that will need to be made, so it's an entire package we need to be talking about.
- DI There's just one correction I'd like to add to that – it's not a discussion about pulling back, it's a discussion about getting to implementation faster.
- KF I'm fascinated by the idea of parallel process, and Gary was suggesting USFWS. I'd like to know Steering Committee thoughts on it. We all, at various agencies and NGOs, are doing our due diligence to keep leadership involved, but I'm wondering if it's time, now that it's starting to take shape, to bring in the highest level of folks.
- GA One thought is that Trish is now the national HCP coordinator. Maybe we could use her as liaison with Brian and others at the Vero Beach office to do something along the lines of what you're suggesting.
- BP That's certainly an option, and I think what Kipp suggested is pretty good. That parallel process would be benefitted for it to include the decision makers at DEP as well as the Service.
- DI I think it is important to keep upper management informed, and I've had many meetings our Director and Deputy Secretary on this, which is why I'm bringing these concerns to the Steering Committee about 161 revisions, because we know what we currently have authorization for that would allow us to go right to implementation as soon as the ITP is issued. It is going to be a challenge to get 161 modified, especially under the current administration, where we're essentially asking for increased regulatory burden and increased reach of the Department. So there is concern, and I'm trying to make sure everyone above me stays informed so that we can try and formulate a plan of action. I understand your talking with Jackie Larson very early on in the HCP process about full

implementation vs. partial. The other thing is we can go hot and heavy with legislature to try and encourage them to change 161, but we don't control the outcome of that. So we can't offer any guarantees.

So, Kipp, to what you were asking me, I think it's very important that at USFWS, FWC and DEP upper management does stay involved in the status of HCP and the hurdles and challenges going forward, especially as we're nearing the finish line.

- KF I'm just thinking of some ideas and strategies, and I don't know where they'll lead us, but from the very beginning, USFWS has told us that this is the biggest HCP effort ever. That being said, and knowing where Trish is now in that role, I see the potential for folks from federal headquarters hosting the highest level of agency individuals. If it's really that big, then it's big, and it deserves the right kind of effort at this point. It's a matter of timing, but what I think we're hearing is there's all these upper level, political decisions that are important. One of the things I'm envisioning in getting the visions and enthusiasm and support at the highest levels, which includes Washington D.C. and Tallahassee, is you've got to start on that now or very soon. That's something that the Steering Committee, if that sounds like a seed of a possible idea, we need to figure out how to brainstorm on that and come back with some other possible ideas. And it may be something we bring up with Larry.
- DI I think that's a very good idea. I think it's important to get all of the groups at the highest level together to talk about it, but I don't know how we do that in a productive way when the Steering Committee members can't discuss this outside of public meetings. What I envision would be the Secretary, the Executive Director, for both FWC and DEP being able to discuss it together with USFWS, but a Steering Committee member cannot be present, so it makes it challenging to steer that discussion. I would need some guidance from this group in terms of how we can facilitate discussions with upper management that really have to happen not only within our own agencies, but across agencies at a high level. And then at some point we have to figure out how to wrap the legislature into this as well, because they'll need to be educated and informed and shown the benefits of doing this, etc.
- GA Maybe it's possible that the work group and Steering Committee can formulate some of these fundamental questions that have to be answered by upper management. And the parallel track would be to try to get those questions answered before we're at the end of this process. Or that could be part of that parallel track. We've raised a lot of fundamental questions in this discussion today that we've talked about before, and we all know what's going to happen. The HCP is going to go up the chain of command and it's going to take years to answer some of these fundamental questions. That's what we're trying to avoid. So it would be nice if there were some kind of parallel working group of upper management people, especially involving the Service, that can address some of these issues as we're moving forward.

- KF I guess I'm a little foggy on the Sunshine limitations, because I would just assume the meeting would be in the Sunshine.
- DI Okay, I understand that.
- GA Is there any way the Steering Committee could suspend or modify those requirements for this meeting?
- KF I think Sunshine in this case is good. I think what I'm suggesting is we have been briefing our chains of command alone – that's one forum – but at some point people need to start developing that level of 'we're in, we're not in, we have a problem, we don't have a problem' in the Sunshine with their partners, federal and state. I would like to follow up with Trish and see what she thinks.
- JW I think it's probably a good exercise, because with a process that's this long there's natural churn in staffing, administration, priorities. So having that periodic check in would be good.
- BE Just for clarity – in the early stages when we were deciding on which species to include, term of permit, etc. Basically the Steering Committee reached a consensus and provided direction to us. So those higher level discussions that you're talking about are all centered around the essential question of statutory authority and rule making to be able to effectively implement the plan. Is that correct?
- KF That's what I'm thinking because that's the big unknown. In fact, if this meeting of sorts happens, that would be the focus, and the working group and others would have to do the right work, because I can tell you that I, for one, don't know the suite of potential changes. Because some of those things involve or could involve interim approval and different things that affect the Service at the highest level with their lawyers and solicitors, I think you're right on. That's the focus.
- DI I would agree, and I think the focus should be more narrowed down to statute in particular. The statute directs what we do in rulemaking, so the critical thing is getting stat changed.
- GA I would suggest that needs to be fine tuned a little bit and to what level statutory changes need to take place before we can implement. Does every single thing have to take place before we can implement or are there graduated steps we can take that the Service would allow and grant approval for the ITP?
- DI That's an excellent recommendation. I think it's going to be much more palatable to upper management if they're given options, like instead of doing the whole kit and caboodle we can do these steps in a phased approach and still achieve the goal that we're looking for.

- BW I think this discussion is really going in the right direction. I think it's very important for us to come to grips with this to go from general to specific. It would be nice to see the chapter 12 implementation schedule, for example, with some annotation that refers to statutory authority required to undertake all the various implementation. It would provide a bit of a roadmap to get this done.
- KF I agree, Blair. Would it be appropriate for us to, as first step, have that be a presentation given to the Steering Committee? Where it's absolutely focused on every potential statutory change we see so far, how it relates, what it is. I think that would help if we're going to steer.
- JW I think we've heard that that list has not been fully assembled yet, and that's why it hasn't been brought to us.
- BE Coastal Tech has put a preliminary draft together. Sally?
- SD Yes, that's correct, and I was planning to go over that. If you'll let me show my couple of slides.
- JW I had a few more comments on chapter 14, but I'll send them in writing to Jennifer. But can I ask, for purposes of process, when you guys get comments in writing, it doesn't give us an opportunity to discuss them as a group. And because of Sunshine, we can't send them to the whole Steering Committee, so we don't know what other people are submitting in writing. We don't have any way of understanding the context of how you guys are coalescing differing opinions and then moving forward. Is there a way that we can either get comments distributed or summarized?
- BE I would like some feedback. We looked at chapter 14 as being pretty much pro forma. With the exception of the statutory changes, I didn't really expect quite as much feedback. In the briefing document that I sent out, there were quite a few questions that I had looking for feedback. So I'd like to send out that chapter again with specific questions outlined and highlight the areas where we're looking for feedback, and once we get everyone's comments back we can compile them and distribute to the entire Steering Committee.
- GA I think that's a really good idea.
- DI I've now read chapter 14 twice and gotten briefed from Lisa on it, so I've spent some time on it, and I really only have two more comments to make. They relate to the sea level rise and climate change timeframe in terms of the review. In the plan we have it at 5 years, and my concern in light of the many presentations I've seen this summer regarding the timeframe in which we'd be seeing changes that can be attributable to sea level rise versus other issues going on, my concern is that 5 years is too brief. I would recommend that we extend that to a 10 year timeframe. And that, combined with the

comments I made on shoreline erosion methodology being closely matched to what the state has already been doing and the funding of that, that's the extent of my comments.

- BE I think on that latter one, that's more of exactly how it's going to work as opposed to what is going to be done. Obviously we understand the funding aspect of it, which isn't addressed in here; we'll address it in the budget. Julie had mentioned earlier that we ought to include the funding for implementation as a potential changed circumstance if the legislature doesn't include that. Every year, the Department is going to have to demonstrate in the annual reports of its commitment to funding it. That's one of the criteria for ITP issuance – you have to demonstrate the capacity to fund the plan. So every year you'll have to submit a budget to show the Service that you'll be able to do that. But yet still, what happens if it's not funded? And I think that's a valid point that needs to be addressed there. Many of the issues that we're going to talk about later as we further develop this and minimization and mitigation, it's all contingent on having money for that. So we're going to have to develop a funding source and then an economic analysis. And what we'll do is everything we're prescribing in here that's going to cost money – whether staff time or subcontracting out – we're going to have a budget for that, and that will be incorporated into a defined funding stream.
- DI I definitely support the inclusion of funding in terms of this changed circumstances chapter, and that will at least provide some heads up that there is that concern that funding changes over time.

Potential statute changes

- SD We've talked about a lot of this already, so maybe this will kind of summarize. From the previous chart that we've done as a draft of chapter 12, in which we talked about all the potential rule and statute changes. We just pulled out the potential statute changes here, which is to add the species other than turtles. What we had also talked about, other than just adding species if you're going in for a statutory change, maybe you could say conform to all the species covered in the approved ITP. That way if you did end up adding or eliminating some of the species in the plan and permit, you wouldn't have to go back and amend the statute. As Bob talked about in his presentation, the implementation of minimization measures and the implementation of the mitigation measures would require statutory change. And also the funding mechanism, which wouldn't have to be a trust fund, but it could be. Does anybody know of anything in the program that's not covered by these broad statutory changes?
- BE What about monitoring? There's going to be quite a bit of monitoring to determine if permits are being implemented. There's protected species monitoring. There's tracking of incidental take. I don't know what categories those would fall in. We talked about local government involvement and potentially providing funding to local governments to help with implementation of lighting regulations and to be a partner in the program. So I think there are other components, although I'm not sure that they fall under one convenient category.

SD Well the coordination with local governments, it's my understanding that DEP does have the authority to implement MOUs with local governments, and if there's to be compensation, that would probably come under the funding category.

The other questions that we've generated thus far are: at what point do you bring in the legislature or the legislative aides to this discussion? And this may be part of your discussions in the future amongst higher level management. What materials will you need for initial legislative briefings? And my thought, you said to establish a Steering Committee sub-committee, and you've already more or less talked about that, to guide the legislative process. So I'll open it up, if there's anything that hasn't been said.

KF Thanks, Sally. I think that's a good two slides, but I don't feel like I understand the breadth and the width and the details of the proposed statutory changes. I think it would be better to have folks who know the statutes now, who know what they think they're going to look like and what might happen, and have the right attorneys in the room. And I think a presentation from those folks for the slow learners, like myself, would elicit more questions and maybe issues.

DI I agree with that. I think there needs to be a lot more detail before we present anything to our top levels of management. I would love to have the program attorney for DEP, West Gregory, involved in the discussion. The only other statute related question I have is, as everyone in the room knows, the CCCL is a construction program and would any of these changes require it to become a program that permits not just construction but also the operational phase of the activities? And if so, where in the statute we would need to reflect that.

BE Early on in the process this big requisite question issue of statutory changes needed to implement the plan, we did run by West Gregory with a concept that was statutory change that would allow DEP to implement the ITP as being a simple fix. It might not be very palatable to the legislature because they would need to know the ins and outs of the HCP, but my recollection is that West came back and said that is a possibility.

DI It sounds like, going to back to what we were talking about earlier in terms of how could we approach the changes in statute that absolutely need to be made in order to get to implementation? Easy way, more difficult way, more thorough way, and so on and so forth. It sounds like that's one of the routes that should be presented. And the other thing, in terms of the education of the legislature on the ins and outs of the HCP, that's going to be required no matter what, and that's not a quick process. I think in terms of getting statutes changed, we should look at it as a multiyear process, if just for the fact that it's going to take a while to get the legislators up to speed so that they're comfortable making a decision one way or another.

GA I just want to reiterate that that may also require some sort of preliminary approval from the upper management at the USFWS that they would accept that kind of process.

- BP We at the Service, we need to from a management as well as a legal opinion provide input into this process on what would be a minimum level of statutory change that would be necessary for issuance of the ITP, and then what are other options as far as minimum, moderate step wise process.
- KF In the interest of making sure we're being facilitated, we've gone from first agenda item into the second. Is there a presentation for minimization measures, chapter 10?
- BE Yes, some of the feedback from the minutes from the last Steering Committee meeting indicated Kat's presentation on process for permit application review, enforcement, that sort of thing, there was insufficient time for the Steering Committee to comment or debate those things, so we decided to bring that back before you.
- KF That's good. We're 20 minutes behind schedule on that. I'd propose that the work group develop an agenda item for the next Steering Committee meeting and have the right people attend that – West Gregory, Mike Yaun, maybe Jackie Fauls and DEP equivalent – and have a more detailed summary of proposed legislative changes and different options for implementation.
- RT Now seems like the appropriate time to ask for reassurance on our approach from the Steering Committee members. Of course, everyone's apprehensive about bringing changes to statute that could be perceived as increasing protection for threatened and endangered species, when in fact that is not what this is about. These laws already exist that protect the species. We have a state regulatory program that is putting its permittees at risk when it authorizes activities that do not allow for consideration of these other protections. So, from my perspective, it's more of an alignment of the state regulatory program with existing protections. Is it appropriate for us to, and is it transparent enough to, take that kind of approach to presenting this. Not, 'oh we must change the statute to protect more species.' Because that's how it could come across, and that is not at all what is happening here.
- KF So I challenge you and the working group to come up with a presentation for the Steering Committee, and we can discuss that very topic and your concerns at the next meeting. Does that work for you, Julie?
- JW And that's always been the way that it's been expressed is that the state and the applicants are at risk, and this is providing assurity and protection for them under the current law. So I would that would be the message and the way that we would frame it.
- KF Okay, so we'll look forward to that for the next meeting. I'll turn it back over to Bob.

CHAPTER 10 AND PROCESS FOR MINIMIZATION

BE Kat provided a lot of detail about this whole process. I think there just wasn't enough time for folks to go through it and ask questions. She updated you guys on chapter 10, which is Minimization Measures. She talked about our general approach to how we're going to do this, what the status of things were, and also the application and processing piece that goes with this, which will probably be moved from chapter 10 to the Implementation chapter. She talked about next steps, and as I mentioned before you guys wanted more time for discussion and debate on several big hairy issues. So we want to revisit the piece on the application and processing, and that's what I'll quickly review.

Again, this is conceptual. This is something we came up with through several face to face work group meetings as to how this whole process would work, because we wanted to make sure that the process was streamlined and make sure that the minimization measures that we develop could be implemented in accordance with the permit terms and conditions that are included in the CCCL permit. So these are the basic components: We've got a web based system for use by the applicants; streamlined permitting for certain activities; facilitated processing of permit applications; improved system for assigning terms and conditions to minimize impacts to covered species; enhanced compliance monitoring; and local government interaction.

The web portal would be housed at DEP's OTIS and developed within 12 months of permit issuance. We'd update and amend the portal regularly. It would be integrated with other relevant programs like FWC's gopher tortoise program, for example. It's going to provide applicants with basic information about the FBHCP and the CCCL permitting process, and hopefully better inform the applicant so that their applications to the Department are more complete, and reduce the early stage consultations with the Department, because a lot of that basic information will be presented on there. And all of that should reduce the workload of DEP's permit processors, because there should be fewer requests for additional information. There's going to be a decision tree that will allow the applicant to select the type of activity they need a permit for. There will be interactive maps that help them see whether or not they even need a permit. It will show whether there are protected species on their property, and where the boundaries are that would determine if a permit is needed. There will be certain activities that don't require a permit, and those will be identified up front. In some cases, maybe minor modifications to the proposed activity could avoid the need for a permit. They might be able to re-site a project to avoid having to get a permit. So all of that information will be present on there to aid the applicant in initiating the whole permitting process. Potentially a more controversial aspect is the establishment of certain low impact projects that could be eligible for self certification. And also, there would be alerts or links to other requisite permit requirements.

For the low impact activities, if we can accomplish that, it will certainly reduce the burden on the applicant as well as reduce the permit load for DEP processors. There are going to be a set of BMPs that will be outlined as a permit condition, and if that self certification permit is issued, the applicant will sign the permit indicating that they will

abide by those BMPs. And then we determined that probably 20% of those would be given site inspections to ensure compliance.

These are some, but not all, of the low impact activities that we talked about: mechanical beach cleaning; temporary structures for special events; seagrape trimming; and a whole variety of others. These are broad classes of activities, so we would establish thresholds for each of these allowed low impact activities with regard to where it is on the beach, how large it is, how frequently it occurs, what kind of equipment will be used, etc. In addition, we thought that there are going to be some self certifications that will require local government statements indicating that the activity complies with code. Also, there would be a notification that would advise the permittee that once the permit expires, if they deviate from those BMPs, that could result in non-compliance with the ESA.

For higher impact activities, again, standard permitting process. It would either require a standard or general permit, and the portal would help explain which of those permits would be needed and provide a checklist of all the information that needs to be submitted to the Department to apply for that permit. So the applications coming in should be more complete than they are now. We'll also talk about the mitigation fee structure so that they can anticipate what the potential cost of their project is going to be. For those of you who may be uncertain about this, we envision that one of the principle funding sources for plan implementation is going to be in the form of mitigation fees, which are going to be proportionate to the relative impact that activity will have on our covered species. We'll also have a variety of contact information that they seek for guidance and initiate consultations, if needed.

On the receiving end of this, we envision that the Department will be provided with advanced tools that will facilitate the processing, particularly with respect to impacts to covered species and the application of appropriate BMPs. That will be supported by a web based GIS tool very similar to the one the applicants will have when they go online. There's going to be a flow chart to assist staff in selecting the appropriate set of BMPs for each circumstance. Initially in this process we talked about Protected Species Management Units (PSMUs), which were basically unique combinations of covered species with a separate set of BMPs or minimization measures for each unit. Whether or not we ultimately go with PSMUs is still up for debate, but that's the concept anyway. We will develop a matrix to help calculate mitigation fees. And there will be a while suite of training and support for DEP staff to assist in administering this new program, with tremendous support from FWC.

As far as compliance monitoring goes, there's still going to be a requisite site inspection for all general and standard permits. Twenty percent of all self certification sites will be inspected. There's going to be a review for dealing with non-compliance. We want to really enhance compliance monitoring in this new process, and there are a number of ways that we can deal with non-compliance.

A big part of this is our partnerships with local governments to assist with implementation. Particularly the issue of CCCL permit expiration after 5 years, is getting the local governments to assist with certain activities through MOUs or MOAs. There might be some ability to amend local building codes to require CCCL compliance as part of the building permit. We certainly want them to either adopt or amend local lighting regulations to be uniform with the state's model lighting ordinance. Ideally, they'd have a local coordinator to be the contact person in that county to assist with implementation, monitoring and enforcement. Obviously, there would be some burden on the local governments, and so we would have to provide financial support as well as other incentives to get this participation. A couple things we show right here are that state rule or statute says that if you're going to engage in issuing emergency permits for temporary armoring in the aftermath of a major storm, then you need to obtain an ITP from the federal government. And by participating in this through those MOUs, the local government automatically receives that incidental take coverage. We also thought about some reduced mitigation fees for local projects in which the local governments are participating. So those are the results of some of our brainstorming; it's not finalized. Again, this is all conceptual. We thought we'd implement the local government participation incrementally. We'd have this pilot project – I think we identified 5 counties – that we would want to have signed up and in the program at the time we submitted the HCP, and then we'd have a schedule for adding in counties at regular intervals.

So that's the big picture framework for this conceptual modification or enhancement of the current permitting process. So now we'd like to get some input from you guys.

- BW I think that was a set of nicely thought out concepts. It seems like the permitting process will be largely automated. It reminds me of the self checkout at Home Depot, which I'm never really successful at getting through; I always have a nice lady help me out with some of my more complex purchases. I know that there's some checking in the system that you outlined. For example, 20% of the low impact project would have site inspections. I wonder if hard and fast numbers like that should be more flexible – that there should be some adaptation associated with the process, so that if there are error rates identified or problems identified, the system could adapt and be a little more vigilant.
- BE That's an excellent point, and that's probably something that we should incorporate. To be honest, that 20%, we're looking at staffing time, and this is another function that would need to be funded through the program. But I agree that having a flexible compliance schedule is a good idea. So you would adjust that based on the level of compliance that you're observing. It could go up or down, but not fixed.
- DI I support that as well. A good example in terms of where that number is changing over time is last year the legislature approving the 10/2 certification in the wetland world. And we at the Department decided we would do 100% inspection of all of those, at least initially, so that we could evaluate if it was effective and being adhered to and followed.

In the future that may drop to less than 100%, but it really depends on how the program is performing. So for something like this – self certification – I think we would want to take a similar approach.

- BE I think the thought there is just the number of permits that are issued. These are permits that are largely handled by field inspectors right now, and that those numbers are so large that it would be impractical to set a higher percentage and work your way down. So we thought that this would be a good starting point.
- KF This is the procedural presentation, and much of what you went over seems well thought out, and the use of online systems is something that many agencies are moving to. How fundamental to the approval and adoption of the HCP are things like that? On the fundamental basis you want to have measures that minimize take and minimize impacts, and I think government has moved to online things are efficient and help work load and are customer friendly and are a good thing in some cases, not always. But that's a mechanism to get to the end point, which is to minimize impact and minimize take and so forth. So are we going to get hung up on these enhancements? Are they going to be required? Are they adaptable?
- BE That's a good point. The key components of this is this process describes assignment of minimization measures to permits. In other words, there are some easy ways to do that, and some more difficult ways. This spells out assignment of minimization measures to specific types of permits and also the compliance piece which is important. But you're right, the more specific you are in these plans, the less flexibility you have. So that's a valid point. But, again, if we go with this kind of conceptual approach and it doesn't work out, as long as it doesn't change the performance of the plan we can change it through an administrative amendment to the ITP. It's not influential in whether or not USFWS issues the ITP. They're concerned about how are you going to implement your minimization measures, and how are you going to ensure compliance? So those are the main points of this.
- BP You're right, Bob. This is sort of an administrative way we've come up with to implement it. I don't think we're going to look to say this is absolutely how it has to be done. And it could be something as far as addressing it in the adaptive management chapter to say that if we identify some inconsistencies or inefficiencies, then we'll change them in these ways. And if we explain how some of those implementation processes could change, then it would be just an easy administrative amendment.
- JW It seems like the HCP cares about whether the minimization and mitigation and the permitting are getting done. How it gets done may not be the bigger deal. But it's a good conversation for us to have because I think we will care and definitely the legislature and DEP will care. There will be a lot of concern for making sure the process is as not onerous as possible for the applicant and at the same time costs are kept at a minimum. So I appreciate the thinking that has gone into that, because I think those two considerations drove the process that got us to that web based solution.

- BW I think process is pretty important, at least outlined as a recommended path, because if someone says they have appropriate compliance, I'd want to know how hard did you look and what were your methods? Just because you don't find something, doesn't mean it doesn't exist. So it would be nice to have a plan for an appropriate way to manage compliance.
- KF Well that helps answer my question, and what I'm hearing also is that from the Service's point of view the ITP isn't held up if goal is to have all online permitting. I know from FWC it's expensive, and it has taken longer than we thought. So I'm glad to hear that it's a goal and an approach.
- GA Bob, can you shed some light on how other HCPs address this? Does the approval of the HCP and the ITP require some level of detail on these kinds of issues, or does this happen after the general format of the HCP is approved?
- BE This piece is unique; none of the other HCPs are really that specific on the permitting process. Basically you have to spell out how you're going to implement your minimization and mitigation measures and give the Service assurance that you have the capacity to do that, and that those are effective. So those are the details that make sense. What I'm hearing from you and what we'll do is make sure we articulate that there's flexibility here. As I said, specifics can get somewhat cumbersome. It's all how the ITP is worded to reflect the intent and subsequent content of plan. In Volusia county there's a conservation zone, and in the plan we said there would be a 4x4 post with an aqua blue, fixed sign, etc., and that language was incorporated into the ITP, and it created problems because it didn't allow any flexibility and we've had to amend. But we learned from it. So I think there just has to be coordination with the Service when they're developing the ITP terms and conditions, that the Department's not locked into very specific minutia details on how they implement the plan. The basic line is you've got biological goals and objectives, you've got metrics for determining if those objectives are being met, and as long as you're good on that, it should be okay. I don't know if I answered your question.
- GA I don't know if you can answer it fully. Can you be as broad as to say, 'there will be a web based portal to develop self certification permits to ensure minimization.
- BE Yeah, I guess we could be as brief as that. You'd like to provide a little more information so that folks reading the HCP understand how the whole process would work. But we could add language that says, 'in the event that the web portal proves inefficient or ineffective or is cost prohibitive, we will revert back to the standard means of processing permits.' So you build flexibility into the text.
- GA I would think that flexibility is important in terms of comfort level for legislators and agencies, etc.

KF I think there's some agreement on that around the team, and I think Bob's had some experience on his team with this that the right amount of flexibility is important. I think the big hairy issue that you started out with is what's the level of acceptable minimization for something that gets you in, and you know ahead of time if you do it this way you're good to go. And whether you find that out on a website or a brochure or someone knocks on your door and tells you, that's all different ways of delivering information, but if the information is that if your walkover is only 5 square feet you're good to go. But that's the big hairy issue. Is that 5 square feet the right thing, or is it 10 or 100? So that's not what this part of the presentation is on, but I think it's nice to go on and say you'll see some BMPs or some exemptions or some levels of de minimis activity so that a homeowner knows they're good to go. And I have no doubt that we'll be able to communicate that to folks, but the hard part is what are those levels, what are the reasonable ones, and those are the ones that folks like Brett and other that are on different parts of this thing will weigh in on what makes sense.

Thank you for that presentation, Bob. Is there anymore discussion on this from the Steering Committee members?

Hearing none and seeing none, that brings us to the parking lot part of the agenda.

PARKING LOT

GA Danielle, is it appropriate for you to report back to us on your meeting with Vero Beach, as it pertains to the HCP? Or do you just want to play that by ear and see if it's necessary?

DI I'd be happy to give a status update at the next Steering Committee meeting in terms of how that meeting went and if any decisions were made.

JM Do we have any members of the public on the call that have any comments?

EF This is Elizabeth Fleming from Defenders of Wildlife. I'm wondering what the public input process is going to look like. I know you've got some of the chapters up on the website, so presumably they're out for public review, but are you noticing the public? If I weren't collaborating with Gary and Julie, I wouldn't know about any of this stuff going on. I'm just wondering how you're letting the public know and what opportunities for providing input are.

JM Elizabeth and I talked briefly about this the other day. There has been a public notice going out for the Steering Committee meetings. And as part of my position now, we are going to start putting more regular updates on the website as well as readdressing the outreach and really making sure that we're connected with everybody with whom there was initial contact made in the beginning of this. So we are going to try to increase public advertisement of updates as well. And for the groups that are interested, they can

always feel free to contact me or any of the other contacts that are listed on the website. We do have a feedback section on the website. I saw in the meeting minutes from June that there was a discussion about social media. I don't know where that stands, but that's probably something we can readdress and maybe have an update for you at the December meeting. Does anybody else have suggestions or comments?

JW I think at the last meeting there was discussion about maintaining the standard email list through regular use. With email lists you get about 30% churn of the emails per year, and you don't have any way of knowing that and getting those forwarding orders if you're not communicating regularly. So early in the process Kat assembled a lot of email addresses, but then communications trailed off. So I would expect that by now quite a few of those are defunct, in part because people's emails have changed or because their leadership roles within their organizations may have transitioned. So reinitiating emails is kind of the intermediate between social media and static updates to the web, but by doing that now you're helping in investing in that email list so that when you do have that big hairy HCP to roll out your list is healthy, and the people you send it to will actually get it.

EF Is there a current NEPA process? Usually for HCPs there's an EIS or something that goes along with it.

BE There will be an Environmental Assessment or an Environmental Impact Statement, but that's not typically initiated until the Service receives the HCP.

JM Do we have any other comments?

KF Thank you, Jennifer. And thanks everybody for joining us.

Adjourned 11:54 am