

From: [Budd-Falen, Karen J](#)
To: [Franklin, Micquetta V](#)
Subject: Fw: Meeting to Discuss HCP Project
Date: Monday, June 15, 2020 10:52:39 AM

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From: Skipwith, Aurelia X <aurelia_x_skipwith@fws.gov>
Sent: Thursday, February 13, 2020 6:29 AM
To: Turner, Andrew <aturner@hunton.com>; Budd-Falen, Karen J <karen.budd-falen@sol.doi.gov>; Romanik, Peg A <PEG.ROMANIK@sol.doi.gov>; Dove, William T <william_dove@ios.doi.gov>
Cc: cspilker@collienterprises.com <cspilker@collienterprises.com>; Clements, E. Carter Chandler <eclements@hunton.com>
Subject: RE: Meeting to Discuss HCP Project
Good morning Andrew,
Thank you for message and will look into this matter of the delay of the ITP being issued. Billy Dove, who I've included here, will be your point of contact. He will reach out to so that we can reach a resolution. Thank you.

From: Turner, Andrew <aturner@hunton.com>
Sent: Wednesday, February 12, 2020 6:05 PM
To: Skipwith, Aurelia X <aurelia_x_skipwith@fws.gov>; Budd-Falen, Karen J <karen.budd-falen@sol.doi.gov>; Romanik, Peg A <PEG.ROMANIK@sol.doi.gov>
Cc: cspilker@collienterprises.com; Clements, E. Carter Chandler <eclements@hunton.com>
Subject: [EXTERNAL] Meeting to Discuss HCP Project
Dear Director Skipwith, Deputy Solicitor Budd-Falen, and Associate Solicitor Romanik,
On behalf of the Eastern Collier Property Owners (ECPO), I am writing to request an opportunity to discuss an issue that has delayed the review and processing of ECPO's Habitat Conservation Plan (HCP), which covers 151,442 acres of private property in Southwest Florida, and ECPO's associated incidental take permit (ITP) applications. The issue concerns whether future, offsite collisions between Florida panthers and vehicles operated by third parties on state, county and local roadways should be attributed to the U.S. Fish and Wildlife Service's issuance of the proposed ITPs. The answer, in our view, is no.
The HCP is a unique effort to achieve landscape scale conservation goals within a large area of private land owned by twelve separate companies in Southwest Florida. The HCP is the result of a collaborative effort by the landowners and four leading conservation organizations, including

Defenders of Wildlife, Florida Wildlife Federation, Audubon Florida and Audubon of the Western Everglades. The HCP is a landscape-level plan that would permanently preserve 106,442 acres of privately owned land that could otherwise be developed, to provide valuable habitat for the Florida panther and eighteen other protected species. The HCP would cap future development at 45,000 acres and cluster and direct that development to areas with lower habitat values (many of which are in active, large-scale agricultural use), and would preserve valuable regional wildlife corridors that facilitate wildlife movement between existing, publicly owned conservation lands in Southwest Florida. As an additional benefit, the HCP would establish funding mechanisms based on (i) contributions as lands are developed and (ii) fees generated as homes within the HCP Area are sold, which are projected to accrue up to \$150 million over the life of the HCP. A small portion of the funds will be used for HCP implementation, and the remainder will be available to fund other conservation activities to benefit species covered by the HCP.

The Service's issuance of the proposed ITPs is the federal agency action at issue. The ITPs would authorize take that occurs incidental to development and earth mining by ECPO members on their privately owned lands within the HCP area. The take would be in the form of harassment for the panther and most other covered species (e.g., disturbance caused by construction or mining activities), and potential harm for a few primarily ground burrowing species. The ITPs would not authorize the development or mining activities themselves. Moreover, the only roads on which collisions between panthers and vehicles are likely to occur are public roads not controlled by the applicants or covered by the HCP where vehicles travel at higher speeds. The ITPs would not apply to or govern the design or operation of those roadways, or third party vehicle operations on those roadways. Issuance of the ITPs will not determine or control whether, when or where any future panther vehicle collisions may occur. Accordingly, the Service's issuance of the ITPs is not the cause of any projected future vehicle collisions with panthers, nor are the relevant circumstances of any such future collisions reasonably certain. For this reason, future offsite third party vehicle collisions with panthers should not be deemed "effects of the action" under 50 C.F.R. 402.02.

The ECPO members have, since the time their ITP applications were first submitted in June 2010 (and resubmitted in August and September 2018), consistently taken the position that issuance of the ITPs will not be the cause of future offsite third party vehicle collisions with panthers.

Nonetheless, while such collisions should not be deemed "effects of the action" under 50 C.F.R. 402.02, the ECPO members have urged the Service to carefully analyze panther-vehicle collisions in baseline and cumulative effects analyses, and have provided substantial analytical information and technical data to support such analyses. Additionally, the ECPO members have committed to direct at least fifty percent of the first \$25 million of funding generated by HCP implementation toward the construction of wildlife crossings and associated fencing on public roadways in order to reduce vehicle collisions with panthers and other species, as sought by the Service and other stakeholders. The HCP process (including the Department's review timeline) is stalled, and has been paused since August 2019 to address this issue. Accordingly, we request and look forward to an opportunity to discuss this issue with you.

Best Regards,

Andrew J. Turner

Partner

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