

Resolving an Endangered Species Conflict in Nevada

The Problem

The desert tortoise, which is both the Nevada State reptile and the largest reptile in the Mojave Desert, had been around for about one million years when Las Vegas development seemed to threaten its odds for survival. By the late 1980s, Clark County, the cradle of the gambling mecca, thrived with an ever-expanding population and mushrooming suburbs edging relentlessly into the tortoise's hot, dry habitat. Loss of habitat combined with other habitat-degrading factors such as livestock grazing, off-highway-vehicle use, drought, and disease to prompt the U. S. Fish and Wildlife Service in 1989 to list the desert tortoise as endangered.



The action abruptly suspended burgeoning commercial and residential development and forced Clark County to halt work on schools, utilities, and hospitals. A raging battle ensued. There was “tremendous community fear that the county’s vibrant economy and rural culture was on the verge of collapse if a solution to the species’ preservation was not found,” according to a University of Michigan masters project report. “Reactions were vicious and the ‘shoot, shovel and shut-up’ mantra became commonplace among embittered Nevada residents.” Developers and city and state governments sued the U. S. Department of Interior to overturn the listing, but they lost.

The Process

But even before the lawsuit failed in 1990, the University of Michigan report says that Clark County commissioners and local environmentalists looked to other options “that could preserve the tortoise (endangered) listing without ripping the community apart.” They turned to Habitat Conservation Planning (HCP), provided under the federal Endangered Species Act, that allows for the incidental take of a species in exchange for protection of habitat on nearby lands. The term “take” refers to killing, snaring, or trapping fish or game. To develop the HCP, a steering committee was formed. It included representatives of local and state governments, federal agencies, local environmentalists, the Greater Las Vegas Board of Realtors representing developers, and such diverse interests as the Southern Nevada Off-Road Enthusiasts (SNORE). According to the report, the

early meetings involved considerable shouting from all directions such that Clark County hired Paul Selzer, a veteran facilitator familiar with the HCP processes, to run subsequent meetings. Selzer immediately imposed three rules:

1. No discussion over the validity of the Endangered Species Act
2. No debate over the listing of the tortoise
3. Everyone at the table had to be willing to give up something.

Within these guidelines, the committee's job was to develop an HCP that provided alternative-habitat protection for the tortoise through use of federal lands that made up about 90 percent of the rural landscape in Clark County. Special technical and implementation and monitoring committees were set up to address particularly controversial matters. Argument-filled meetings dealt with such issues as the purchase of grazing rights' allotments from ranchers, location and establishment of reserve areas for the tortoise, road closures, and use designation of public lands.

Committee members faced a tough immediate deadline. During their first year, they had to develop a plan that met U. S. Fish and Wildlife Service standards for protecting the tortoise or the issue would go back to the courts. In fact, they reached agreement on a short-term HCP in 1991 which was replaced with a permanent Desert Conservation Plan in 1995. In all, during nine years of an augmented HCP process, committee members logged 800 hours of meetings, which often became full-day affairs with meals eaten at the table.

Why did the process result in agreement? The University of Michigan report quotes facilitator Selzer: "It was really a matter of not having a better alternative ... and everyone would have lost otherwise. Environmentalists would have lost because the issue would not have been resolved at all ... Builders would have lost because it would have cost them a lot of money to go through another lawsuit and development would have faced a serious setback ... Rural folks knew they would lose access to public lands one way or another. So everyone was better off having at least a say in the matter."

The Result

According to the Fish and Wildlife Service, the settlement means that Clark County, Las Vegas, and companion cities "will be allowed to take, incidental to development activities, desert tortoises on 111,000 acres of non-federal land in Clark County ... over the next 30 years." In return, conservation measures "will minimize, monitor, and mitigate the effects of this take and the associated loss of tortoise habitat in the permit area by enhancing the species' chance for survival and recovery in the wild" on the vast federal lands in Clark County. Fees of \$550 an acre for land under development help to pay for conservation efforts.

The University of Michigan report identifies three major achievements of the Habitat Conversation Planning process:

1. Establishment of a one-year pre-HCP settlement in 1990-91.
2. Development of a 30-year Desert Conversation Plan between 1992-95.
3. Formation during 1995-98 of a multi-species HCP plan which applies excess conservation funds to preventing 200 additional species from becoming endangered while permitting Clark County development to continue. HCP efforts have established more than 800,000 acres of habitat preserve, “implemented monitoring programs, and improved ecological conditions and land use patterns of the Clark County region,” the report says.

Lesson Learned

A few simple ground rules can help move a group from arguing about what they can't control to focusing on what they can affect and what they agree on.