FINAL REPORT

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December, 2005

A PROGRAM MANAGEMENT ANALYSIS OF THE CLARK COUNTY DESERT CONSERVATION PROGRAM

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Chapter I
Introduction

This study recommends that the charter governing the Implementation and Monitoring Committee and the Desert Conservation Program be changed in order that it might conduct its business more efficiently. There are at least three compelling reasons that drive this recommendation. They are:

1. The IMC's mission has shifted dramatically from *plan development to plan implementation;*

2. The IMC oversees the biennium expenditure of more than *$13 million of public funds;* and,

3. The IMC *must comply* with the Nevada Open Meeting Law.

The reasons for recommending charter changes and other relevant changes are discussed in the following chapters of this study. Specific recommendations are found in Chapter IX, Findings and Recommendations.

Background

Kirchhoff & Associates was retained by the Clark County Air Quality and Environmental Management Department to conduct a study of the administrative and decision-making process whereby the Implementation and Monitoring Committee (IMC) grants funding for the Clark County Multiple Species Habitat Conservation Plan (MSHCP) to recipients. This report includes the following chapters:

- **Chapter I – Introduction –** This chapter provides a brief description of the study including background information and the study objectives**.**

- **Chapter II – Organization Profile and Staffing –** This chapter briefly describes the staff organization within the Air Quality and Environmental Management Department that is responsible for supporting the efforts of the Implementation and Monitoring Committee.

- **Chapter III – The MSHCP Biennium Calendar and the Funding Process –** The unique and complex funding process used to support the Multiple Species Habitat Conservation Plan, and its relationship to the Biennium Calendar is explained in this chapter.

- **Chapter IV – The Implementation and Monitoring Committee –** This chapter contains input from the IMC members and discusses the need for decision-making process improvements.

- **Chapter V – Concerns of the Implementation and Monitoring Committee** This chapter discusses the concerns of IMC members as expressed during interviews and in the organizational climate survey.

- **Chapter VI – The Adaptive Management Plan and Science Advisor** – The roles of the Adaptive Management Science Team and Science Advisor are reviewed in this chapter.

- **Chapter VII – Organizational Culture Analysis –** The organizational culture of both the Implementation and Monitoring Committee and the staff that supports it is discussed in this chapter.

- **Chapter VIII – Teams and Teamwork Issues –** The role of leadership and how the Implementation and Monitoring Committee works as a team are the subjects of this chapter.

- **Chapter IX– Findings and Recommendations –** This chapter contains the consultant's findings and recommendations for improvement.

The credentials of the project manager, William Kirchhoff are included in Appendix A.

Clark County, Nevada

Clark County has more than 1.7 million residents, amounting to 70 percent of the state's population. More than 35 million tourists visit the county each year. As a "city" government, Clark County serves about 680,000 residents in the urban unincorporated area, providing traditional services such as fire protection, parks and recreation, building inspections, public works, etc. As a regional government, Clark County plays a key role in providing social services, transportation, public health, flood control and other significant public services throughout its 8,012 square miles of area.

Clark County is governed by a seven-member County Commission, elected from geographic districts on a partisan basis for staggered four-year terms. Appointed by the County Commission, the County Manager is responsible for the administrative operations of the more than 10,000 people employed by the county. The county's fiscal year general fund budget exceeds $900 million and its total budget exceeds $4 billion.

The Air Quality and Environmental Management Department is responsible for the administration of the Desert Conservation Program, which implements the Multiple Species Habitat Conservation Plan.

The Multiple Species Habitat Conservation Plan

Clark County; the Cities of Las Vegas, North Las Vegas, Boulder City, Mesquite, and Henderson, and the Nevada Department of Transportation (the applicants) have prepared the Multiple Species Habitat Conservation Plan (MSHCP) in accordance with the provisions of the Federal Endangered Species Act.

The MSHCP was prepared in cooperation with the Clark County Implementation and Monitoring Committee (IMC), the United States Fish and Wildlife Service, the Nevada Division of Wildlife, the United States Bureau of Land Management, the United States National Park Service, the United States Forest Service, the United States Geological Survey Biological Resources Division, the United States Environmental Protection Agency, the University of Nevada, Las Vegas, the University of Nevada, Reno, the Biological Resources Research Center at the University of Nevada at Reno, the Nevada Natural Heritage Program, the Nevada Division of Forestry, the Southern Nevada Water Authority, and the Utah State University.

The MSHCP is an extension of the effort begun with the Clark County Desert Conservation Plan, which was prepared in response to the Federal listing of the desert tortoise as a threatened species. The intent and purpose of the MSHCP is to establish a means to address the conservation needs of the entire range of biological resources within Clark County.

The key purpose of the MSHCP is to achieve a balance between:

- Long-term conservation and recovery of the diversity of natural habitats and native species of plants and animals that make up an important part of the natural heritage of Clark County; and,
- The orderly and beneficial use of land in order to promote the economy, health, well-being, custom, and culture of the growing population of Clark County.

Additionally, the MSHCP has been designed to:

- Provide substantial recovery and conservation benefits to species and ecosystems in Clark County;
- Maximize flexibility and available options in developing mitigation and conservation programs;
- Reduce the economic and logistical burden of these programs on individual landowners and state and Federal land managers by distributing their impacts in a fair and effective manner;

- Reduce uncoordinated decision-making, which can result in incremental habitat loss and inefficient project review;
- Provide the Applicants with long-term planning assurances and increase the number of species for which assurances can be given;
- Bring a broad range of activities under the permit's legal protection; and,
- Reduce the regulatory burden of the Endangered Species Act compliance for all affected participants.

The Objectives of the MSHCP

The objectives of the MSHCP are:

- Avoidance of the necessity to list additional species in Clark County and the conservation and recovery of currently listed species;
- Assistance to federal and state land and wildlife managers;
- Comprehensive and coordinated mitigation for species and habitat impacts as a substitute for project-by-project evaluation and mitigation;
- Provision for long-term protection of habitats and species on a regional basis with a focus on source population, reduction of threats and/or impacts on key conservation areas, and enhancement of connectivity between conservation areas;
- Protection of long-term habitat carrying capacity for species by, maximizing to the extent practicable, avoiding, minimizing, and mitigating impacts and by assuring that any take allowed will not appreciably reduce the likelihood of the survival and recovery of species covered by the MSHCP;
- Identification and evaluation of the effectiveness of alternative and adaptive habitat management techniques over time and utilization of the Adaptive Management Process;
- Identification and evaluation of habitats with significant potential for enhancement and restoration;
- Provisions for appropriate development and economic growth within the county compatible with the MSHCP and the needs of the residents of the county;

- Identification of equitable and effective funding and implementation of mechanisms adequate for recommended actions and achieve the objectives set forth in the MSHCP; and,
- Early involvement of interested agencies, landowners, managers, and other stakeholders in advance of proposals for specific conservation strategies in an effort to minimize conflicts and delays and facilitate appropriate public and private development.

The Implementation and Monitoring Committee

The Clark County Multiple Species Habitat Conservation Plan Implementation and Monitoring Committee (IMC) is a stakeholder group, appointed by the Board of County Commissioners, with the task of working with the MSHCP.

The major purpose of the IMC, as stated in the MSHCP, is to *"…review and comment upon the progress of implementation of the MSHCP measures, to recommend expenditures, for the next biennium, and to assure that all interested groups will have notice of and ability to comment on habitat management decisions and implementation measures prior to funding by the MSHCP."*

Objectives and Scope

The Director of the Air Quality and Environmental Management Department and her staff identified several objectives to be achieved by the Program Management Analysis. They are to:

- Analyze the Program's existing organizational structure;
- Assess the current level of staff support for the Program;
- Review the Program's expenditures;
- Assess the practices used by the Program to notify all interested parties regarding its decisions;
- Review conflict of interest safeguards;

- Evaluate the way the IMC establishes funding priorities; and,
- Evaluate the decision-making process used by the IMC.

In addition to the objectives described in the above, this report is intended to be an educational document written to provide the reader with a reasonably comprehensive overview of the "workings" of the support staff and the IMC in relationship to the implementation of the Multiple Species Habitat Conservation Plan.

Study Approach

In response to the Air Quality and Environmental Management Department's request for assistance, Kirchhoff & Associates utilized a detailed work plan designed to address the study objectives. The work plan is a series of tasks and sub-tasks grouped into three primary categories; data collection, analysis, and reporting. The specific activities conducted as a part of these categories are described briefly below:

Data Collection

The data collection process included several specific activities which are briefly described below:

- **Staff Interviews –** At the beginning of this phase of the study, the consultant met with the Department's Director, Assistant Director, Environmental Manager, the Plan Administrator, other employees associated with the Multiple Species Habitat Conservation Plan and the Implementation and Monitoring Committee. Each staff member was asked to complete a Problems and Solutions Questionnaire.

  The consultants also interviewed non-departmental county staff who are involved with the financial, legal and auditing affairs of the Multiple Species Habitat Conservation Plan.

- **Collect Documents –** During the initial interviewing phase, the consultants collected a variety of documents and information for use in the analysis. These documents included budget information, departmental organization charts, staff reports and IMC surveys conducted by the staff in 2001, 2002 and 2004. The documents reviewed are as follows:
    - Clark County Multiple Species Habitat Conservation Plan;
    - Environmental Impact Statement;
    - County Manager Ethics Policy Memo and Amendatory Ethics Resolution;
    - Nevada Revised Statutes, Code of Ethical Conduct;
    - The Endangered Species Act in Clark County;
    - Clark County Purchasing and Contract Administration Policies and Procedures;
    - Resolution to Confirm IMC, Establish Membership, Mission, Tenure and provide for a Program Administrator;
    - Implementing Agreement, November 2000;
    - MSHCP Adaptive Management Science Plan;
    - Example Contract, Interlocal Contract and Proposal;
    - 2005-2007 Biennium Request for Proposals;
    - Recordings of the October, November and December 2004 IMC Meetings; and,
    - Meeting minutes from April, May, October, November and December 2004 IMC meetings.

- **Other Habitat Conservation Plans –** For additional insights and comparative information, the consultants reviewed other habitat conservation plans and interviewed staff. Included among the plans that were reviewed were the San Diego Multiple Species Conservation Plan, the Camp Wilderness Habitat Conservation Plan, the Plumb Creek Timber Habitat Conservation Plan, Lower Colorado River Multi-Species Conservation Plan, and the California Bay-Delta Authority Plan.

- **Organizational Climate Survey –** Each member of the IMC was requested to complete a survey designed to assess the working climate within the IMC. The reporting of the survey, as well as the analysis, is done on a total group basis.

- **Committee Member Interviews –** The consultants attempted to interview each member of the IMC in an effort to obtain as much "member input" as possible.

- **Permittee Cities Interviews –** An interview invitation was extended to each of the permittees.

Analysis

The Program Management Analysis includes a variety of analyses focused upon the areas and the objectives in the scope of work identified by the Director. It included an analysis of:

- Current and future program workloads;
- Organization structure and capacity to absorb additional work;
- Use of technology;
- Workload indicators and performance measurements;
- Policies, procedures and standard specifications;
- Internal communications;
- Training; and,
- Performance evaluations.

Project Goals

The Air Quality and Environmental Management Director and her staff established the goals of this project. The main goal was to conduct an analysis of the operating

processes of the IMC. The focus is to assess effectiveness, efficiency, and accountability of the program and make recommendations for improvements to the program to achieve the following goals:

1. Address the issue of conflict of interest with respect to IMC membership (including working groups of the IMC), and method of operation, particularly with regard to funding determination and recommendations for projects and contractors. Identifying specifically real conflict interests, perceived conflicts of interest, and potential conflicts of interest. Make recommendations to perceived conflicts of interest within the process where determined, and prevent potential conflicts of interest.

2. Evaluate the MSHCP budget process with specific attention to the timelines and adequacy of time provided for the IMC review and prioritization of projects and criteria used for evaluation of proposals.

3. Address the status of IMC membership to determine if it fairly and adequately represents the public and key stakeholders. Determine if committee member's representatives and agency personnel are of sufficient authority to fully represent their agency in IMC recommendations to the BBC.

4. Evaluate the effectiveness of the IMC role as an advisory group to the BCC.

5. Evaluate the structure and effectiveness of the MSHCP administration, including staffing levels and roles in implementing and monitoring the MSHCP.

6. Evaluate the role of the MSHCP administration.

7. Evaluate the MSHCP administrative process for accountability purposes.

8. Evaluate the participation and roles of the permittees to the Incidental Take Permit.

9. Evaluate the participation and roles of the Science Advisor to the MSHCP.

10. Evaluate the participation and roles of contracted administrative consultants of the MSHCP program.

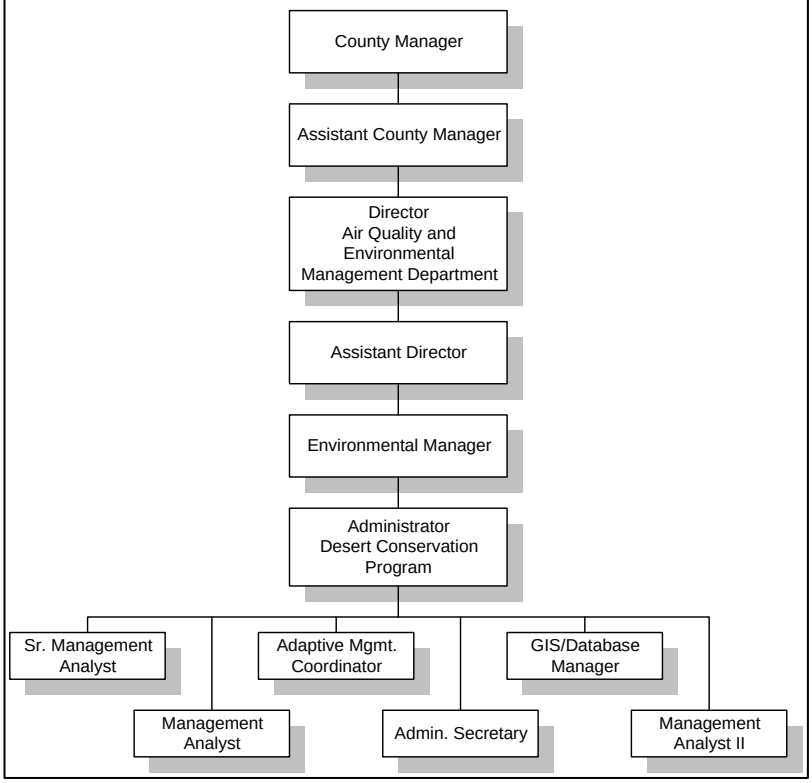
Chapter II
Organization Profile and Staffing

This chapter contains a brief descriptive profile of the Desert Conservation Program staffing structure that supports the Multiple Species Habitat Conservation Plan and the Implementation and Monitoring Committee. It also contains information regarding staff's workload and responsibilities. The purpose of the organization profile is to provide a base for the analysis and recommendations contained in Chapter IX.

Organization Overview

The Multiple Species Habitat and Conservation Plan is the responsibility of the Department of Air Quality and Environmental Management. The Desert Conservation Program staff supports the IMC and is responsible for the management of the MSHCP. Exhibit II-A illustrates the organization of these work units.

Exhibit II-A
Desert Conservation Program
Organization



Position Duties and Responsibilities

A limited number of the IMC members are of the opinion that the Desert Conservation Program staff is subordinate to the IMC. Based on a review of the resolution which confirms the IMC; an examination of other Clark County advisory groups; discussions with the District Attorney's Office and input from the chain of command above the Desert Conservation Program Administrator; it is the opinion of the consultants that the IMC is purely an advisory board that was created, in part, to work in cooperation and collaboration with the County's staff. Given that there is some confusion associated with the formal relationship between the IMC and staff, a clarification recommendation has been has been included in Chapter IX

The following is a brief description of the duties and responsibilities of the managers, supervisors and employees involved with the management of the Multiple Species Habitat and Conservation Plan and the Implementation and Monitoring Committee.

- **Director, Department of Air Quality and Environmental Management –** The Director reports directly to the County Manager and is responsible for the overall management of the Air Quality and Environmental Management Department.

- **Assistant Director, Department of Air Quality and Environmental Management –** The Assistant Director is responsible for the operational activities of the department, including the Environmental Division, of which the Multiple Species Habitat and Conservation Plan is a component.

- **Environmental Manager, Environmental Division –** In addition to managing the Multiple Species Habitat Conservation Plan the Environmental Manager supervises work units responsible for lands, water and solid waste.

- **Desert Conservation Program (DCP) Administrator –** The Program Administrator is the hands-on supervisor of the Multiple Species Habitat Conservation Plan and works directly with the Implementation and Monitoring Committee.

- **DCP Staff –** There are seven positions that report to the Program Administrator. They are a Senior Management Analyst, Adaptive Management Coordinator, GIS/Database Manager; Management Analyst II; Management Analyst; Administrative Secretary; and, Office Specialist.

Categories of Work

There are fourteen categories of work performed by the Desert Conservation Program staff. They are:

1. Implementing and Monitoring Committee;
2. Working Groups Support;
3. Public Information & Education;
4. Budget & Finance;
5. GIS/Database Management;
6. Project Management;
7. Meetings (departmental, division, staff, informal);
8. Permit Compliance;
9. Mitigation Fee and Land Disturbance;
10. Administrative;
11. Other Work As Assigned;
12. Implementation Plan & Budget Process;
13. Adaptive Management Program; and
14. Contract Management.

Program Management

At any given time during a biennium the Desert Conservation Program staff can be managing up to ninety-nine (99) moderate to major projects. The categories of work that consume the most time and have the highest priority are contract management, project management, mitigation fee assessment and land disturbance and budget and finance administration. They are discussed below:

Contract Management – The staff uses a best practices approach to the oversight of contracts in terms of meeting schedules, staying on budget and causing the performance expectations and deliverables to be met. A Sr. Management Analyst devotes approximately 75% of her time to contract management, assisted by 35% of an Office Specialist's time. It is not unusual for the Sr. Management Analyst and Office Specialist to be involved with the management of seventy (70) some contracts at a given time during the biennium.

Project Management – This program is responsible for providing quality assurance for the projects approved by the IMC. It involves the visit to project sites; the tracking of project progress; scheduling project reviews; tracking project budgets; coordinating contractor presentations; maintaining project status reports; participating in project planning; reviewing and approval of products and deliverables and providing day-to-day direction and coordination with the consultants and stakeholders. It should be noted that Desert Conservation Program staffing limitations prevent the level of consistent and systematic program management that should be occurring.

Adaptive Management Program – This relatively new program is coordinated by the Adaptive Management Coordinator who has access to a substantial amount of technical support through outsourced contractors and consultants (Science Advisor, Adaptive Management Science Team and independent science reviewers). The GIS/Database Manager is assigned to this program.

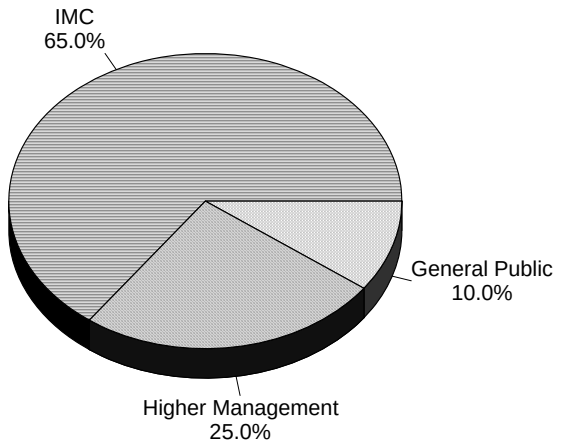
Mitigation Fee Assessment and Land Disturbance – This oversight activity involves the assessment of mitigation fees and land disturbance among Clark County and the cities of Las Vegas, North Las Vegas, Henderson, Boulder City and Mesquite. Currently, no specific staff person is assigned to administering these activities.

Budget and Finance – The Desert Conservation Program is responsible for managing more than $34 million Implementation Plan and Budget for the 2005-07 biennium. With the requirement this budget and plan parallel Clark County's capital and operating budgets for each fiscal year, the Program is essentially responsible for managing two complex budgets that have to balance. No single staff position is dedicated to this activity.

Workload Sources

The Desert Conservation Program staff's work and task assignments originate from three sources – higher management; the IMC, it's individual members and its work groups; and, the general public. As is illustrated below, the source of most of the staff's workload is generated by the IMC, IMC Working Groups and individual IMC members. Exhibit II-B illustrates this.

Exhibit II-B
Desert Conservation Program Staff
Workload Sources



The IMC conducts some its work through twelve working groups, with differing results. Although the IMC assigns work to the Working Groups, it frequently does not accept the Working Group's work product. Many Working Group assignments are rehashed at the IMC meeting, with some of the work product being rejected. The staff member with the primary responsibility for the working groups is the program's Management Analyst II. The working groups are:

- Public Information & Education
- Roads
- Database
- Muddy River
- Law Enforcement
- Weeds
- Low Elevation Plants
- Avian
- Springs
- GIS
- Planning
- Adaptive Management

Chapter III
The Biennium Calendar

The activities of the Implementation and Monitoring Committee are dictated by a biennium calendar that has a starting point of March 15 on even-numbered years. Below is the schedule mandated by the Multiple Species Habitat Conservation Plan.

Date	Year	Action	Responsible Entity
March 15	Even	AMP report	Contractor's
April 15	Even	AMP review	I&M Committee
May 1	Even	Proposed MSHCP development projects described and Delivered to County and USFWS	Federal agencies
May 1	Even	Proposed AMP projects described and delivered to County, Federal agencies, and USFWS	AMP contractor
May-Aug 1	Even	USFWS, County, Federal agencies, AMP contractor on MSHCP development projects and AMP for ensuing two years for proposed PLMA funding	USFWS, County Federal agencies, AMP contractor
May 15	Even	Letter to agencies re proposals/budgets with suggestions From AMP, USFWS, I & M	Clark County
July 15	Even	Accounting report on money available including COLA and credits MSHCP performance projections	Clark County
August 1	Even	Proposals/budgets for MSHCP implementation projects	Contract/agencies
Sept 1-Dec 31	Even	Budget sessions re implementation matters, AMP, and non-Agency development projects	I&M Committee
Dec-Jan	Even	Budget and biennial plans to USFWS	I&M Committee
Dec-Jan	Even	Review and approval/rejection of budget and biennial plans	USFWS
Jan 31	Odd	Joint submittal to PLMA executive committee to fund Development actions	Federal agencies and I&MC
February 15	Odd	Budget and proposed credit to USFWS	I&M Committee
April 15	Odd	Approval of budget and credits	USFWS
July 1	Odd	Approved by BCC	BCC
September 1	Odd	Progress reports	Contractors and agencies receiving funds
October 15	Odd	Composite report of accounting and progress reports including contractors progress reports, updated financial projections, final biennial expense report, land disturbance report, and tortoise disposition report	Clark County
December 15	Odd	Approval by USFWS	USFWS
Quarterly	All	Financial land disturbance and tortoise disposition reports	Clark County

Chapter IV
The Implementation and Monitoring Committee

This chapter is devoted to information derived from the Implementation and Monitoring Committee (IMC) and the views and opinions of its current members. The input received from the IMC members played a very important role in the development of many of the recommendations found in Chapter IX, Findings and Recommendations.

Historical Perspective

The Clark County Multiple Species Habitat Conservation Plan (MSHCP) was crafted during the years 1992 -1995. The Implementation and Monitoring Committee (IMC) was established as the forum for debate, discussion and the exchange of ideas among the "stakeholders." These individuals represented federal, state, county and municipal governments; mining and ranching interests; homebuilders and developers; environmental and conservation organizations; off-road vehicle users and other special interests.

The MSHCP was created through a consensus-based negotiating process that was lengthy, sometimes contentious and time consuming. The MSHCP plan was adopted in 1995, with the IMC assuming the responsibility for the plan's implementation and monitoring. The fact that the plan was negotiated in a venue open to all parties, and all decisions were based on consensus, distinguished it from other habitat conservation plans (HCP). By almost any measurement or standard, the Clark County MSHCP has been, and is, a model for the successful inclusive participation of diverse applicants and interest groups in the habitat conservation planning process.

IMC Challenges

Among the significant issues challenging the IMC are:

1. The maintenance of a decision-making process that is acceptable to the public and private parties having interest in the MSHCP; and,

2. The management of all of the operational components of the MSHCP; and,

3. The fiscal oversight necessary to manage the MSHCP's biennium revenues and expenditures.

When the MSHCP was adopted in 1995-96 its biennium funding was $4,286,138 with the $550 per acre developer paid fees its only source of revenue. With the passage of the Southern Nevada Public Lands Management Act, the biennium funding for 2003-4 and 2004-5 is approximately $15 million, and $38 million is estimated for 2005-6 and 2006-7.

Committee Member Input

A substantial amount of information was forthcoming from the individual members of the Implementation and Monitoring Committee. In addition to interviewing almost all of the IMC members appointed by the Board of County Commissioners, other stakeholders and interested parties involved with the Multiple Species Conservation Habitat Plan were interviewed.

This Program Management Analysis and decision-making study included an Organization Climate Survey of the IMC members (Appendix C). Twenty-five individuals completed and returned the survey document. The individual organization climate survey responses are confidential. The reporting of survey results, as well as the analysis, is done as a total group to preserve the individual confidentiality of employees. The organization climate survey consists of a series of statements, both positive and negative. Those completing the survey were asked to indicate if they were in agreement

or disagreement with each of the statements. The statements were placed into the following categories:

- Understanding IMC Roles and Responsibilities;
- Staffing and Operational Resources;
- IMC Meetings;
- The Recommendation Process; and,
- Biennium Budget Sessions.

There were a total of twenty-eight statements grouped into the five categories listed above. The organization climate survey asked each respondent to either Agree or Disagree with a statement. Where more than seventy percent (70 %) of the responses were *similar in agreement or disagreement*, it was concluded that a significant "majority" of the respondents generally felt the same way. Where the same responses were less than seventy percent it was concluded that the respondents were sufficiently "split" in their opinions.

In addition to agreeing or disagreeing with the statements in the survey, many of the respondents included comments on the survey instrument. Some of these comments are included in this section of the report. The consultants attempted to select comments that generally reflected the majority views of the respondents. The section below is devoted to IMC member's responses to the twenty-eight statements in the five categories.

1. Understanding IMC Roles and Responsibilities

This part of the survey included seven statements related to the roles and responsibilities of the IMC. A significant majority of the respondents *felt the same way* about five of the seven statements. They are:

- I understand the IMC's roles and responsibilities (**Agree**);

- The IMC would benefit from a review of the roles and responsibilities (**Agree**);
- The IMC has a clear vision to accomplish its roles and responsibilities (**Disagree**);
- The roles and responsibilities of IMC members and other participants are distinct and understood (**Disagree)**; and,
- IMC members appropriately represent their constituents (**Agree**).

The number of respondents to two of the seven statements in this category were split between agreement and disagreement, indicating a significant difference in opinion among the members responding. These two statements are:

- My colleagues understand the IMC's roles and responsibilities; and,
- Interests represented on the IMC are fair and equitable.

Some of the representative comments of this section of the survey are:

- *"While many of the IMC members appear to understand the roles and responsibilities, there are a few individuals that either don't understand or don't want to because of their own agendas."*
- *"The staff we have now does not seem to understand the role of the IMC, and the IMC has little understanding of the roles of the permit holders."*
- *"A clear vision and overall consensus of roles/responsibility could clear up confusion and minimize on things outside the IMC's purview."*
- *"There is no difference in the rules and responsibilities of members and non-members. Being appointed means very little."*
- *"I feel the recommendation process is inherently flawed due to uncertainties regarding: who is a member, who can 'vote', and who can voice opposition/support."*
- *"The roles/responsibilities of IMC members, interested parties, County staff, and consultants are neither understood nor agreed upon. This is a major obstacle to efficient meetings and managing the program in general."*
- *"I believe that it would be helpful to review the primary role of the IMC as established by the BCC, although I believe that most members understand the primary role of the committee – to act as advisor to the BCC with respect to all aspects of administration of the Desert Conversation Plan, but especially how funds available to the Plan are expended."*
- *"The IMC could be asked, rather than told, how they would like to make their recommendations."*

Summary

Based on the responses to the seven statements in this category, it appears that most IMC members believe that while *they* understand the IMC's roles and responsibilities, a significant number of the *other* IMC members would benefit from a review of the roles and responsibilities. And, there is a need to develop a *clear vision* of the IMC's purpose. Also interests represented on the IMC are perceived to be unfair and inequitable.

2. Staffing and Operations Resources

The survey included seven statements related to the staffing and resources available to the IMC. A majority of the respondents share the same opinion about four of the seven statements. The four statements that a majority of the responding IMC members are in concurrence with are identified below:

- There is **agreement** that the staff has the expertise necessary to implement the program;
- There is **agreement** that the program has adequate resources to do its work;
- There is **agreement** that the program has access to the technologies necessary to accomplish its mission; and,
- There is **disagreement** that sufficient resources are devoted to monitoring projects and programs which have been funded by the program.

Members of the IMC were equally split in their opinions regarding three of the seven statements in this section. They are identified below:

- There is sufficient number of staff available to support the program;
- The IMC enjoys a positive relationship with staff; and,
- Staff is organized in a way that allows them to be effective.

Some of the comments pertaining to these seven statements in the Staffing and Operational Resources category are:

- *"Staff appears to be understaffed – frequent delays in getting out information, etc. Additionally they are sometimes very slow to respond to phone calls, emails (weeks not days)."*
- *"There are not enough resources allocated to administration and staffing. The IMC needs better organization, oversight, and direction to manage problem."*
- *"Although contract monitoring efforts are improving, there is a great disparity in that monitoring…Additionally, certain contractors' funds are not nearly as closely monitored as others."*
- *"It is hard to evaluate whether there is sufficient staff to support the program."*
- *The IMC is mostly friendly to staff, but they often view staff as adversaries."*
- *"…there is a large difference in how people are treated that are receiving funds. It has been said that it is the fault of the finance branch, but if you look at other funding from other places, you do not have to dance as hard or jump though as many hoops as the County forces you to."*
- *"The monitoring seems unfair."*
- *"Big improvement in this area over the last 2-3 years."*

Summary

The responses and comments related to this section of the organization climate survey indicate that the IMC believes there is sufficient staff expertise, resources and technology to implements programs. The IMC also agrees that the resources devoted to monitoring projects and programs are insufficient.

3. IMC Meetings

The frequency of meetings, levels of participation, member interaction and public involvement are studied in this section. The majority of the respondents felt the same way about five of the six statements in this section of the organization climate survey. A majority of the IMC members responding:

- **Agreed** that the frequency of meetings is appropriate;
- **Agreed** that all members and participants have equal opportunity for input;

- **Agreed** that public participation is encouraged**;**
- **Agreed** that members and participants participate in good faith; and,
- **Agreed** that members and participants enjoy a positive and respectful relationship with one another.

With respect to the statement "The meetings are businesslike and productive," those responding were fairly evenly split with respect to agreeing or disagreeing. Some of the representative survey comments from this section are:

- *"The meetings are not always businesslike but they are productive."*
- *"IMC members need to be reminded of the difference between getting their way and respecting each other."*
- *"Staff also needs to be strongly reminded that they need to respect ALL members of the IMC and listen openly to all IMC members' and public opinions, not just those the staff agrees."*
- *"Formerly participation is encouraged, however, the group can be very disrespectful to those who have differing opinions and I think that leads to a 'silent' minority who goes along fearing that if they speak out they will be ridiculed and chastised."*
- *"The ways things are handled now, the IMC is totally stifled."*
- *"Meeting facilitation has very much benefited the IMC meetings but sometimes I feel we should be more productive."*
- *"The IMC process is admittedly time consuming and inefficient – BUT IT WORKS."*
- *"…Assumptions regarding roles have sabotaged meetings in the past. There are ongoing conflicts concerning power and control."*
- *"Members should have the floor over public participants. The time spent on opinions is exhaustive and not productive."*
- *"It is common for IMC members to get off track and not listen to the other members. Facilitation of the meetings is weak. The Program Administrator is a stronger influence on the IMC than the facilitator."*

Summary

The respondents were in general agreement that meetings are held often enough; that IMC members and participants have equal opportunity for

input; that public participation is encouraged; and, members and participants participate in good faith and enjoy a positive and respectful relationship with one another. There was, however, a divided opinion response to the statement "The meetings are businesslike and productive."

4. Recommendation Process

This section of the survey focused on the recommendation process and the majority of respondents selected the same answer for four of the five statements. A majority of the respondents:

- Did **not agree** that the decision-making process used by IMC is adequate;
- Did **agree** that the recommendation process is consistent;
- **Agreed** that the IMC is provided with adequate information to make good decisions; and,
- Were in **agreement** that the staff is helpful with respect to the process by the IMC.

There was an almost even split by those who responded to the statement "All IMC members have equal process to the recommendation process." Among the comments found in the survey regarding the recommendation process were:

- *"The consensus process is very inconsistent."*
- *"The IMC works on 'consensus.' However, "consensus has never been defined…Decisions are made via 'who tires out first' not based on information and decision making tools"*
- *"IMC should be structured to allow one member vote per organization. Under the current process, the voice vote of a consultant, who is not a member of the IMC, is equal to the voice/vote of a public agency representative that serves as a member."*
- *"I do recognize that staff is doing a lot of the work that previously was done by the IMC – but I feel that the IMC gets muted when decisions are being made."*
- *"A lot of decisions are made outside the meetings."*

- *"Sometimes it feels like County staff hides some insights from IMC."*

Summary

As it relates to the recommendation process, the majority of the IMC do not feel the decision-making process is adequate, but the majority agrees that the recommendation process is consistent. The majority also feels that they are provided with adequate information with which to make decisions, and that the staff is helpful. However, there is a substantial difference of opinion with respect to the statement "All IMC members have equal input to the recommendation process."

5. Biennium Budget Sessions

A significant majority of the respondents did **agree** that the IMC budget development process is not adequate. And, the majority of the respondents did not agree that budget decisions reflected the program's mission.

Nearly all of the respondents were in **agreement** that there are conflicts of interest with some of the budget recommendations.

Below are some comments illustrative of the committee member's views of the biennium budget process:

- *"Each biennium gets better but we still have a ways to go."*
- *"Eliminate the MSHCP staff ability to 'water down'` the IMC recommendations."*
- *"It's a sharkfest!"*

Summary

A substantial number of the IMC members feel that the budget process is not adequate, nor do the budget decisions generally reflect the program's mission.

The vast majority of respondents agree that there are conflicts of interest with some of the budget decisions.

Decision-Making Process Improvements

In an effort to find the most constructive and efficient ways to serve the MSHCP, the organization climate survey asks each IMC member "How might the decision-making performance of the Implementation and Monitoring Committee be improved?"

The individual responses, with some editing to protect confidentiality, are included in this section. In the case of a very lengthy response, the consultants have attempted to use the parts that illustrate what the respondent is saying. Suggestions for improving the IMC's decision-making process are:

- *"There needs to be a clear distinction of who is actually a member and what role/responsibility is associated with membership versus interested parties and general public's roles. Ethical questions relating to voicing a "vote" or expressing consensus on your own or related proposals must be addressed."*

- *"The HCP pays for legal advice to keep the permit (name deleted) & for legal advice for rural interests (name deleted.) There desperately needs to be a legal advisor specifically for conservation interests. If we lose a species or if more species are listed, our HCP fails and development permits and development are both in jeopardy."*

- *"Several strong, dominant personalities should not be allowed to bring everything to a screeching halt unless and until they get their way."*

- *"More in depth presentations should be given so that issues can be resolved on information not emotions."*

- *"If the IMC could work like they did before, this process would be the success it was. We need to talk our thoughts out with no time lines and then listen to the next person discuss their ideas and come to a compromise. We need to be sure if the county does not agree with the IMC and plan to go before anyone with their ideas, that the IMC knows and knows why and has a good chance to present their side."*

- *"The administrator needs to inform the signatories of decisions that they try to make or let the signatories be part of the decision-making process. Several times the signatories are being left out of decisions that affect the permittees."*

- *"Limit time of comments at meetings to a minimum of two-minutes per member, when members are called on to make a comment, respond to questions, or to argue a point."*

- *"We have made great strides with having a meeting facilitator. The IMC has, or should have, a clear understanding of what items require a decision on the part of the IMC, and which items do not. The new plan administrator was an excellent choice, but may need to soften her approach which leads me to the original question. Everyone is allowed to speak before a decision, including the public. Narrowing the speakers to a "one time only" speech would assist the IMC in its decision-making performance by allowing us a speedier performance."*

- *"The IMC process for input, ideas and identifying concerns is good. The membership needs a clean sweep. Too many have been there too long and have become too controlling of the process. We need "term limits," a fewer members versus public who have concerns."*

- *"There needs to be professionalism restored to the process. There is too much personal agendas voiced and not enough attention given to the scientific process. The MSHCP leadership needs to stand up for science and monitoring understanding. I'd recommend separating science & stakeholder interests using the CC staff and a few IMC to provide updates and progress. The scientists spend too much of their time at meetings defending their ideas and findings."*

- *"There was a lot more done before the last couple of years. We need to be listened to."*

- *"We need to have IMC meetings spaced further apart in non-budget years."*

- *"Impacts and mitigation measures occur primarily on Federal lands so the Federal land managers should have more authority."*

- *"Less frequent housekeeping reports ,more time for discussion of issues, better set up of issues ,narrower agendas, less choreography, more flexibility."*

- *"…strongly believe that a legal advisor for conservation is needed to assure conservation on an overall level.*

- *"The IMC makes recommendations based on goals and objectives of the program and the interests of the participants based on individual involvement. This represents the only workable solution for Clark County."*

Summary

As should be expected from a pioneering group, members of IMC are proud of what they have accomplished over the past fifteen years, and have strong convictions with regard to the implementation and monitoring efforts related to the Clark County Multi-Species Conservation Habitat Plan. However, it is very apparent that the majority of respondents want to see *significant changes* with respect to the issues of:

- Conflict of interest;

- Consensus decision-making;

- Committee structure, leadership and meeting management; and,
- Program and project management

As a result of the information obtained from the organization climate survey and individual interviews, these four major areas of concern are addressed in greater detail in Chapter V.

Chapter V
Concerns of the Implementation and Monitoring Committee

The focus of this chapter is the four areas of concern that were expressed most frequently by the IMC members who were interviewed and those responding to the organizational climate survey. The four areas of concern are:

1. Conflict of Interest;
2. Consensus decision-making
3. Committee structure, leadership and meeting management; and,
4. Program and project management

The intent of this chapter is to provide the reader with background regarding the findings and recommendations expressed in Chapter IX Findings and Recommendations.

1. Conflict of Interest

The Director of Air Quality and Environmental Management is very concerned that conflicts of interest exist as they pertain to the activities of the IMC and has directed the consultants to examine the issue thoroughly. Even though the responsibility for determining a conflict of interest rests with the individual, the Director wants this matter in sufficient detail so that each IMC member has the benefit of a clear explanation of the subject.

The most mentioned concern by IMC members relates to conflicts of interest. Eighty percent (80 %) of those responding to the survey generally agreed that "There are conflicts of interest with some budget recommendations." Some are concerned that they might have a conflict of interest, but aren't sure; some are of the opinion that others have very real conflicts of interest; and, some are concerned that the IMC is operating outside of Nevada's laws pertaining to

conflict of interest. Below are some of the statements relating to conflict of interest:

- *"Many others on the IMC actually reap financial rewards via true conflicts of interest…"*
- *"The federal land managers are terribly conflicted…"*
- *"There are very real issues of conflict of interest, but they don't lie with the Federal employees who get paid pre-determined salaries which are unaffected by how much money is provided by the County."*
- *"Every study conducted results in 3 more studies conducted."*
- *"Terms on the IMC could be very beneficial."*

The Regulating Authorities

The *standards* to which any advisory group appointed by the Clark County Board of County Commissioners, including the Implementation and Monitoring Committee, are found in Clark County's January 4, 2004 Ethics Policy, the February 17, 2004 Resolution To Establish The Applicability Of Certain Ethics Requirements Adopted By The Board Of County Commissioners, and a memorandum dated January 2, 2004 from the county manager are included in the Appendices (see Appendix C, D and E).

The *interpretation* of these regulations is the responsibility of the Clark County District Attorney's Office.

The *responsibility* for determining whether or not a Clark County official has a conflict of interest rests solely with the individual.

The *Code of Ethical Standards* is found in the Nevada Revised Statutes (See Appendix F).

The Clark County Board of County Commissioners includes "…members of the various advisory committees established by ordinance or resolution…" in its definition of a "County Official."

Conflict of Interest Definition

In Clark County, a 'conflicting interest' *is any interest of the County Official (financial, personal, collaborative or otherwise) that could reasonably impair, or that could be construed as impairing by a reasonable third party, his or her ability to act in the County's or public's best interest in the matter. Potentially conflicting interests often arise from outside employment, donor/donee or debtor/creditor relationships, consulting arrangements, family or personal relationships, legal or fiduciary."*

Legal Analysis

Recognizing that the Implementation and Monitoring Committee is a unique group that advises the Clark County Board of County Commissioners, the consultants relied heavily on the input received from the Clark County District Attorney's Office. Below are the consultant's questions with responses from the District Attorney's Office. The purpose for including these questions, and the responses, is to help the IMC members decide if their involvement with MSHCP results in any form of conflict of interest, real or perceived.

> **Question –** If the job of a government employee who sits on the IMC is funded from the IMC, is such a conflict of interest?
>
> > ***D. A.'s Response – "****If the continued employment of the employee is contingent upon the IMC funding, there could be a problem. The classic example, for County employees, is a 'grant-funded' employee, who signs a statement acknowledging that their job ends when the grant fund ends. If such is the case, there is a problem. If that employee's department or program gets funds, there is a potential problem but perhaps not a disqualifying conflict."*
>
> **Question –** If a faculty member of a state university is on the IMC, and receiving payments from the IMC as a private consultant, is such a conflict of interest?
>
> > ***D.A.'s Response –*** *"I am assuming that the faculty member did not vote on his own consulting agreement. As you have already recognized, however, it is very*

problematic having this type of person on the IMC because there is a finite amount of money, and even if he didn't vote on his own contract, a reasonable person in that situation would have a conflict because he/she is dividing a pie and has to ensure there is enough left over for him-self or her-self. There is the perception of 'I'll scratch your back if you'll scratch mine' even if each member doesn't vote on her or his individual contract, if they are voting on the disposition of the rest of the funds."

Question – Does the IMC member who votes for funding for a private business which compensates him/her in any way have a conflict of interest?

D.A.'s Response – *"Yes."*

Question – Would being a IMC paid "advisor" under contract to the County prevent that position from representing someone else or an entity trying to do business with the IMC?

D.A.'s Response –" *It depends on the nature of the consulting contract that the 'advisor' is performing. Sometimes, the County insists that there be no conflicts (a lobby contract is a good example) Other times, the value of a person's services are not discounted if he is representing other people with interests before the board. This is a policy judgment call more than a legal judgment call. Some of the common factors to consider are whether the County Board is willing to waive the perceived conflict because of the unique nature of the advisor's services – i.e., are they so necessary and integral for success that we can't do without and no one else can do it as well? And will the Board so rely on the advisor's services that they thereafter can't be detached when the then advisor comes before them representing someone else?"*

Question – Does the IMC member employed by a not-for-profit organization have a conflict of interest if he/she votes on a funding request for his/her employer.

D.A'.s Response – "Yes."

Declaration and Abstention

The IMC represents the BCC and therefore has an obligation to not only make the best decisions on recommendations possible, but also to act in an ethical manner. This means that the IMC members are responsible for the appropriate declaration when they have a conflict of interest as described in Nevada Statutes and BCC Resolution. It is, however, critical to understand that the declaration of a conflict of interest does not dispose of the conflict, and that the safest and most ethical course of action is to always declare the existence of a potential conflict.

On the other hand, not every declaration of a potential conflict requires an abstention. An abstention is required if a *reasonable person* would have his or

her judgment swayed by the conflict. If so, the member should not vote. The challenge here is for the IMC member to recognize that the standard is objective, and the test being whether the average person in the same circumstances would be affected.

2. Consensus Decision-Making

Many members of the IMC expressed a concern that the "consensus" process for reaching a recommendation(s) to the Clark County Board of County Commissioners is flawed. Below are some views from IMC members regarding this subject:

- *"The membership needs to be reviewed and voting limited to appointed members. The voting should be based on a majority basis and not require 100% consensus."*
- *"Getting true representation of stakeholders would be a real improvement. Many user groups represent only themselves."*
- *"More consistency with recommendations and the 'consensus driven,' process. For example, one time 4 or 5 dissenting votes was not considered consensus, but another time it was considered consensus."*
- *"Decision making should be limited to the IMC members appointed by the Clark County BCC."*
- *"The permittees should have a veto ability since compliance is ultimately their responsibility."*
- *"As things stand now anyone with an interest in the process may participate at any time and they are afforded the same consideration as an IMC member. Many times a particular interest group will "load the room" with individuals announcing a particular point of view."*

The May 7, 2002 Board of County Commissioners' Resolution (Resolution) states that "The transaction of Committee business shall be made by *consensus* of the Committee members present at a meeting," but does not define what is meant by the word consensus.

Based on interviews and written input from members of the IMC there is considerable confusion with respect to what is a *consensus.* The word implies

group solidarity in sentiment and belief and the most common definition of consensus is when *everyone in the group is in agreement* with a decision or course of action.

The IMC operates without written policies that govern the manner in which advisory recommendations to the Board of County Commissioners are developed. The outcome is that decisions having far-reaching implications are often determined in differing ways, making it difficult to hold the IMC and its members accountable in the usual ways necessary for good governance.

Below is a question posed to the District Attorney's Office and response regarding the need for a formal voting process for advisory decisions related to public expenditures.

> **Question –** "…if I understood you, the IMC needs to be using a formal voting process, as it makes either funding recommendations or recommendations that will require County expenditures – am I correct? Is it necessary for the votes to be recorded in the official minutes?"
>
> > ***D.A.'s Response –*** *"Since the IMC is subject to the Open Meeting Law and it has action items on its agenda that it wants the Board to act on, e.g., expenditure of funds, approval of contracts, they need to meet their quorum requirements and should ensure that recordation is made of the members present and voting on those items. For other internal actions of the IMC, they can continue to use "consensus" if they wish to."*

3. Committee Structure, Leadership and Meeting Management

While the current situation as it pertains to committee structure, leadership and meeting management "works," a majority of the survey respondents and those interviewed are of the opinion that there are better ways for the IMC to conduct its business.

There is a general recognition that; (1) meeting management has improved with the use of a facilitator; and, (2) there are better ways for the IMC to conduct its business during its meetings. Below are comments from

committee members and others closely affiliated with the MSHCP that illustrate some of their concerns regarding these issues.

- *"The membership needs to be reviewed and the voting limited to appointed members. The voting should also be based on a majority basis and not require 100% consensus."*
- *"Only appointed members should be allowed to vote, and structure of the committee should be changed."*
- *"Anyone who writes a letter to the BCC gets appointed to the IMC."*
- *"There was a lot more done before the last couple of years. We need to be listened to."*
- *"If the IMC had a clear vision I don't think we would have so many obstacles."*
- *"We have some lapses in behavior, but both facilitators and staff are there to take the appropriate response."*
- *"The roles and responsibilities are grey."*
- *"People need to be allowed to speak"*
- *"We have made great strides in having a meeting facilitator."*
- *"The IMC members are not heard over the public, people with separate agendas and anybody who may want to yap."*
- *"Although good meeting management is certainly desirable, overmanagement to the point where there is no real discussion defeats the purpose of an advisory group*

While the May 7, 2002 Board of County Commissioners Resolution requires that the IMC members be appointed annually, the resolution is not specific with respect to either the number of members on the IMC, or the specific interests that should be represented. There is no doubt that the Board of County Commissioners intended for the IMC to include representatives from the widest possible range of interests. Although the resolution identifies specific governmental agencies and other organizations and interests as a guidelines for membership on the IMC, confusion abounds with respect to who is a member; how many members there are; who has a right to vote on decisions; and, what is the criteria for membership. This confusion was illustrated in a meeting the consultants had with two long-time members of the IMC. When asked "How

many IMC members are there?" one responded "about fifteen," and the other's response was "forty."

The current list of organizations who are represented by individuals appointed to the IMC by the Board of County Commissioners are thirty in number and identified below:

1. U.S. Fish and Wildlife Service
2. Bureau of Land Management
3. National Park Service
4. U.S. Geological Survey
5. Nevada Division of Wildlife
6. Nevada Division of Forestry
7. Nevada Department of Transportation
8. Nevada Department of Agriculture
9. U.S. Forest Service
10. Southern Nevada Water Authority
11. Clark County
12. City of Las Vegas
13. City of North Las Vegas
14. City of Henderson
15. City of Boulder City
16. City of Mesquite
17. Partners in Conservation (northeast County interests)
18. Representative of Mining Interests
19. Representative of Off-Highway Vehicle (OHV) interests
20. Representative of Off-Highway Vehicle (OHV) interests
21. Southern Nevada Home Builders Association
22. The Nature Conservancy
23. University of Nevada, Reno
24. Muddy River Regional Environmental Impact Alleviation Committee
25. Conservation District of Southern Nevada
26. Sierra Club
27. The Conservation Fund
28. Red Rock Audubon Society
29. Greater Las Vegas Association of Realtors
30. Searchlight Town Advisory Board

Other habitat conservation plans, the Lower Colorado Multi-Species Conservation Plan for example, have much more specific criteria for the interests represented and the term of office.

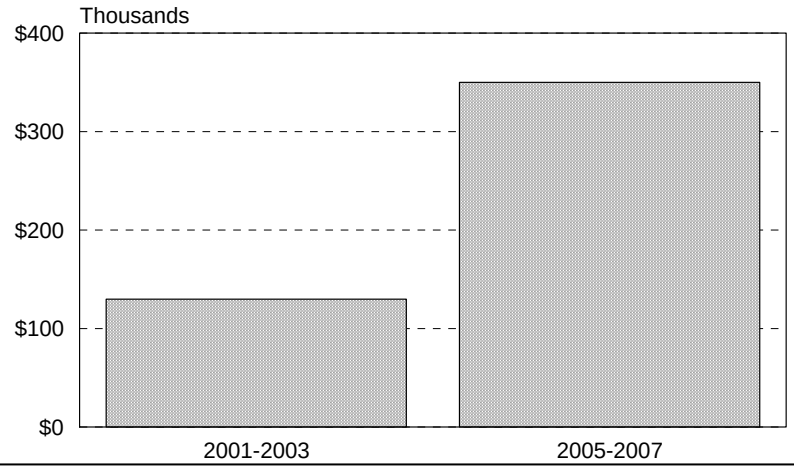
Unlike almost any other governmental advisory body, as well as Clark County's other advisory boards, the IMC does not have a specific number of positions representing specific interests. This, of course, contributes to the confusion of "whose vote counts, and whose doesn't."

So far, it has been determined that the IMC is the only Clark County advisory board that operates *without* a chairperson or co-chairpersons chosen from the membership. It is extremely rare when a government appointed advisory board does not have a designated leader. This fact, combined with an overall confusion with respect to the roles of the members, the Plan Administrator, professional facilitators and other advisors to the IMC, suggests that the IMC needs a *designated leader* – a person elected by the IMC or selected by the Board of County Commissioners.

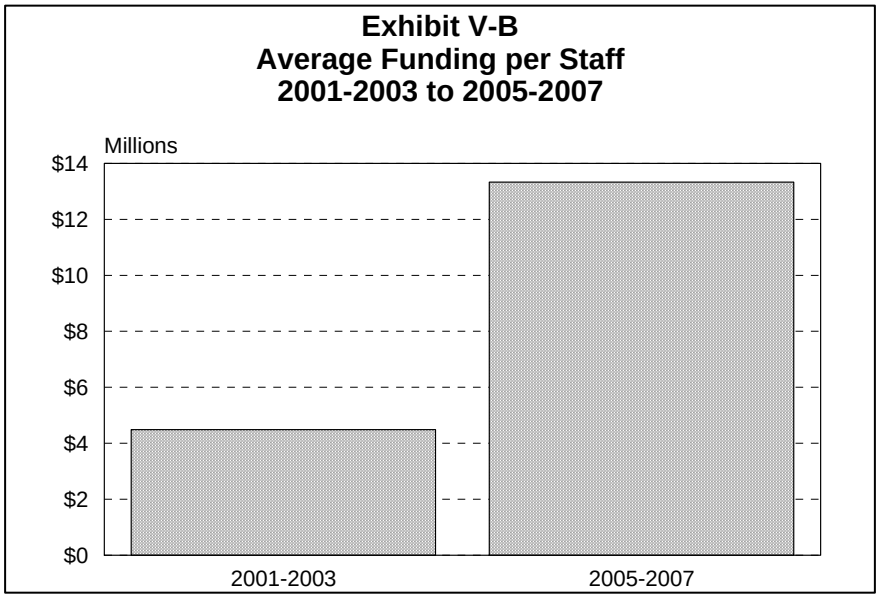
4. Program and Project Management

Perhaps the most significant change in the evolution of the IMC is the transition from *developing* the program to *implementing* the program. The average project cost has increased from approximately $130,000 in 2001-2003 to approximately $350,000 in 2005-2007. Exhibit V-A illustrates this.

Exhibit V-A
Average Project Cost
2001-2003 to 2005-2007



Currently, the IMC and staff are responsible for the management of ninety-nine (99) projects having a total funding of $34 million. The average biennium funding each staff member is responsible for has increased from approximately $4.5 million in 2001-2003 to over $13 million in 2005-2007. Exhibit V-B illustrates this increase in per staff contract management responsibilities.



Second only to the staff's conflicts of interest concern is the concern that there is not enough staff time to devote to project and contract management.

The following comments were made regarding the IMC's program and project management

- *"An 'unmentionable" amt. of $ has been devoted to projects and programs."*
- *"Current staff are amazingly competent, professional and interested."*
- *"They (the staff) are almost too busy."*
- *"There are too many (staff)."*
- *"Now we need short progress reports from the various scientists to assure they are spending their funding wisely."*
- *"Too lax on allowing changes or revisions to proposals."*
- *"Not enough time is spent learning what each of the proposals/contractors are accomplishing – especially the science advisors. I think they should give regular*

detailed updates. Check and balance system needs to be in place so that the responsibilities of all involved are routinely being resolved and tweaked back into place."

Chapter VI
The Adaptive Management Plan and Science Advisor

This chapter is devoted to understanding the Adaptive Management Plan, its Adaptive Management Science Team (AMST) and the role of the Science Advisor.

Background

The Clark County MSHCP was developed and is built upon the premise of adaptive management. Simplistically, adaptive management involves the posing and testing of management hypotheses, monitoring and learning from doing, and then using the knowledge gained to modify future management.

On December 12, 2002 in a Memorandum of Agreement, it was determined by Section 2.8.2 of the Clark County Multiple Species Habitat Conservation Plan that Clark County, through its Implementation and Monitoring Committee, including the Federal Land Management Agencies, would develop an Adaptive Management Plan (AMP). Its goals included agreement upon a uniform process to be utilized to identify which conservation activities should be recommended by the IMC for funding, regardless of the source of the funds.

Another goal of the AMP was to provide the IMC and the Federal Land Management Agencies with scientific information and data to take into consideration, together with such social, economic and political factors as it deemed relevant, to formulate budget recommendations to the Board of County Commissioners, and PLMA Executive Committee and the Service. The AMP further recommends modifications or

development of additional policies, local rules and regulations, and local management practices and conservation strategies using basic and applied scientific methods and techniques for protecting and preserving the natural resources in the county.

A unique aspect of the Clark County MSHCP is that mitigation for incidental take occurs on mostly federal public land and directly impacts the use of these lands. Therefore, it is of critical importance that those involved with the MSHCP maintain positive relationships with the federal agencies involved. It is understood that public involvement must also be a part of the process to resolve differences and conflicts among the many user groups while still providing for the necessary conservation actions.

As a result, the Adaptive Management Plan (AMP) was developed with input from many affected groups. They include:

- Permit holders;
- Federal land managers;
- U.S. Fish and Wildlife Service;
- IMC;
- Adaptive Management Working Group;
- County Commissioners;
- County Manager; and,
- Assistant County Manager.

Just recently, an Adaptive Management Coordinator has been hired to manage the Adaptive Management Plan. This position is a full-time grant-funded position.

Adaptive Management Science Team

The Adaptive Management Science Team was developed to address the issues of effectiveness and efficiency, and to improve the scientific basis for MSHCP development and implementation. More specifically they are tasked with providing scientific review for the Clark County MSHCP program as well as reviewing on-going monitoring efforts

and results, new information, findings and recommendations from funded projects, assessments and conservation strategies. Members include:

- Clark County Adaptive Management Coordinator (team facilitator/coordinator),
- Clark County Science Advisor (UNR-BRRC),
- Credentialed USDA and USDI federal research scientists,
- A credentialed scientist selected by the IMC; and,
- A representative from FWS Ecological Services Division.

While the mission of the Adaptive Management Plan is the *application of adaptive management principals*, the AMST is responsible for applying these principals, resulting in the development of the Biennial Adaptive Management Report (BAMR). The BAMR's intended purpose is to identify priorities for program direction and management and determines criteria for proposals.

AMST meetings are to conform to Nevada Open Meeting requirements and time is allowed to non-members who wish to speak or ask questions. The AMST is required to meet quarterly, but meets as necessary to undertake tasks for creation of the Biennial Adaptive Management Report.

As funding proposal review is one of the responsibilities of the Adaptive Management Science Team, members developed and used criteria for proposal evaluation. This provided scientific guidance and recommendations to the IMC.

When formed, it was acknowledged that the AMST would adhere to a code of ethics patterned after the USDI-"Code of Scientific Conduct, which has been the subject of independent peer review.

Clark County Science Advisor

Clark County entered into a contract with the Biological Resources Research Center at the University of Nevada, Reno (BRRC) to provide scientific advice to the Service, the

Federal Land Management Agencies and the IMC and its Working Groups. More specifically the Clark County Science Advisor is responsible for:

- Providing scientific advice and technical expertise to the Plan Administrator and the IMC;
- Participating on the AMST;
- Providing statistical and GIS support to the AMST and Plan Administrator;
- Assisting in the preparation of the Biennial Adaptive Management Report;
- Offering its assistance to ensure that proposals are consistent with the Adaptive Management Plan principles;
- Developing and managing MSHCP databases; and,
- Developing and conducting workshops, at the direction of the Plan Administrator, to address conservation issues identified and prioritized as part of the MSHCP process.

Independent Review

Proposals for the MSHCP are solicited based on the priorities determined by the Biennium Adaptive Management Report (BAMR). Independent review is conducted when the Plan Administrator, the FWS and the AMST agree it is necessary. Independent review will look at whether the proposal is consistent with priorities established by the AMST in the BAMR and that the proposal is based on best scientific principles. To serve on the review teams, scientists must have proper credentials and must not be affiliated with or otherwise stand to gain from any entity whose proposal or project is being reviewed.

Below are some comments from IMC members regarding the Adaptive Management Plan and science matters:

- *"The BRRC reviews proposals & asks for a huge amount of $ ea. Biennium."*
- *"UNR has positioned itself to control the MSHCP and the majority of its available funding. Those dollars (in the millions) are being wasted. UNR cannot coordinate the AMP, have a majority presence on the Scientific Review Committee, have multiple representatives on the IMC (some announced and some hide as 'members of the public') and represent $15,000,000 funding requests to the program. UNR is taking millions of Southern Nevada $ up north and giving Clark County very little in return."*

- *"I'd recommend separating science &stakeholder interests using the CC staff and a few IMC to provide updates and progress. The scientists spend to much of their time at meetings defending their ideas and findings..*

- *"Science advisors are too close to species conservation, also benefit on a monetary level."*

- *"There is still something so wrong about UNR sitting on the AMScience Team (in large numbers) and being allowed to both review and put in proposals. The AMST needs improvements to be credible."*

Chapter VII
Organizational Culture Analysis

The concept of organizational culture, and how it *might* affect the IMC and the way it conducts its business is discussed in this chapter.

Organization Environment

A broad definition of organization environment is the "*psychological atmosphere* that emerges out of the way an organization conducts itself." It's the intellectual and cultural climate that shapes the attitudes and guides the behavior, ultimately defining whether the organization is a good, or, not so good, place to be. Experience shows us that the organization environment can encourage or dissipate effort. It can promote openness or silence; encourage risk taking or risk aversion; and, allow for differences or require sameness. A good environment, shaped by a strong positive culture allows the participants to be focused and productive. A bad environment diverts meaningful effort and undermines the organization's ability to do what it was created to do. In short, the organizational environment sets the tone for what constitutes acceptable and unacceptable behavior.

Organizational Culture

Culture refers to the pattern of values, beliefs, norms and behaviors shared by an identifiable group of individuals. Organizational culture is "the way things get done" in a private corporation or government entity. The way the IMC gets things done is based on a host of interwoven factors. They include the content and pattern of interactions, the role members play and their interrelationships, and the norms and rules guiding the

organization's interactions, including the rewards and punishments associated with honoring the norms and breaking the rules

The IMC as a group has a unique mix of members, purposes, rules, and behaviors that cannot be duplicated exactly in other groups. But like all other organizations, the IMC is always evolving and adapting to the changing circumstances both external and internal to it as an organization because its culture is always developing and is never completed. A distinct organizational culture surrounds the IMC and affects the way its members conduct their business. One of the distinct organizational characteristics is that the culture affects not only how the IMC members conduct their business, but how the conduct of the IMC affects and influences how people who are not members of the IMC – but work with or interact with the IMC – conduct their business.

Whether weak or strong, culture has a powerful influence throughout an organization. It affects practically everything – from what time meetings starts, how long the work day is, what decisions are made by whom, productivity, and how employees and committee members relate to their constituencies. A strong, *positive* culture is a powerful lever for guiding behavior because it helps employees and committee members do their jobs in two ways.

First, a strong culture is a system of informal rules that spells out how employees, supervisors and managers are to behave most of the time. By knowing what is expected of them, employees will waste little time in deciding how to act in a given situation.

Second, a strong and positive culture enables people to feel better about what they do, so they are more likely to work harder. It is estimated that a company can gain as much as two hours of productivity per employee per day with a strong, positive organizational culture. Because workplace culture (in this case the IMC's) culture has such a profound impact on employees and their productivity, a *negative* culture will greatly diminish the organization's capacity for performance. It is for these reasons that the solution to most

organizational problems is not re-structuring the organization's hierarchy of duties, but rather the re-structuring of the organization's culture.

The goal of any work environment is to ensure that people consistently take action to achieve the organization's goals. Not surprisingly, it is relatively easy for an organization to create many roadblocks to the achievement of its goal. Experience has demonstrated that a primary reason for an organization's failure to achieve its goal is that there is often insufficient training for working as a team. Despite the fact that collaborative teams are dedicated to managing complex tasks in a rapidly changing environment, relatively few have any significant training in team working.

Exhibit VII-A lists some of the traits that are generally associated with a positive organizational culture of a government agency or advisory group, such as the Implementation and Monitoring Committee.

Exhibit VII-A
Traits Associated with Positive Organizational Culture

- There is a clear and accepted goal.
- All stakeholders are held accountable for their actions.
- The workplace climate is characterized by openness, trust, and teamwork.
- The stakeholders take pride in working as a team.
- Gossip, favoritism, complaining and personal attacks are rare.
- The organization's mission is understood
- All information is shared.

Exhibit VII-B on the following page identifies some of the workplace traits that are associated with the culture of a government agency or advisory group that is negative. When it is determined that these negative traits exist in an organization, then every effort by management to eliminate them should be exercised. Until these traits have been

replaced with more positive ones, the group cannot perform at its maximum level of efficiency.

Exhibit VII-B
Traits Associated with Negative Organizational Culture

- Conflicting direction is not unusual.
- Performance goals and objectives are unclear.
- Meetings are stressful and chaotic.
- Criticism of other members of the group is commonplace.
- There is little delegation or sharing of authority.
- Who's in charge is unclear.

The IMC's Organizational Culture

The Implementation and Monitoring Committee is basically a peer-driven, self-managed problem-solving group that has been given an undefined area of freedom to manage their work product, the MSHCP. When interviewing IMC members and staff, and reviewing the information provided in the Organization Climate Surveys, the consultants focused on the concerns identified below:

Group Purpose/Goals

- Does the IMC have a clear and accepted group goal?
- Has the IMC achieved a clear understanding of its charge?
- Do members seem to know and accept the normal limits of a Clark County advisory board?

Communications

- How competently do IMC members express themselves verbally?
- How carefully are IMC members listening to understand each other?
- How equally is participation spread among the members on the IMC?

Group Culture, Norms and Communication Climate

- To what degree is the group climate characterized by openness, trust, and teamwork?
- Do any self-centered hidden agenda items interfere with progress toward the goal?
- Are arguments being expressed sensitively and managed to test ideas and achieve consensus?
- What attitudes toward each other, and the content of information, and ideas are members manifesting?

Role Structure

- Is there a designated leader? If not, how is leadership distributed?
- Are others encouraged to share in the leader functions?

Problem-Solving and Decision-Making Process

- What are the IMC's problem-solving procedures?
- Do IMC members seem adequately informed or are they planning how to get the needed information before reaching conclusions?
- Are information and ideas being evaluated thoroughly for effectiveness and possible negative consequences, or accepted without question?
- How creative is the IMC in finding alternatives?

It appears to the consultants that the IMC's organizational culture is divided into two distinct groups, the *moderate* camp and the *maverick* camp, with a significant majority of the members belonging to the moderate camp. Those in the moderate camp value a traditional and rational decision-making process that focuses on professional teamwork, reasonable dialogue and debate, information sharing and clear cut goals and objectives. Historically, it has been the core values of the maverick camp that dominate the workings of the IMC. As the essence of the IMC's philosophy for "success," the maverick group's core values frame the way things happen and how work gets done with respect to the

MSHCP. The lack of who is a voting member, role confusion, vague consensus criteria for decision-making and the lack of clearly defined leadership positions (chairperson/vice chairperson/co-chairperson) created a free-wheeling environment where the IMC was able to operate outside of the normal parameters of a government entity. And there are those who believe that it was this organizational culture that created the environment necessary for the *development* of a very successful habitat conservation plan – the MSHCP. Based on document review, interviews, observation and staff input the consultants were able to identify many of the IMC's core values. They are identified in Exhibit VII-C.

Exhibit VII-C
IMC Core Values

- *"We are a totally unique group that is not to be held back by the normal mechanics of conventional government."*
- *Length of service on the IMC is a status determinant.*
- *There is no distinction between appointed members and other meeting attendees.*
- *The IMC members "outrank" the professional staff.*
- *Abusive language and inappropriate behavior are tolerated at meetings.*
- *Conflicts of interest are recognized and tolerated.*
- *Meetings are stressful, chaotic and difficult to manage.*
- *The vocally assertive dominate the outcome of the meetings.*
- *The "last man standing" form of consensus is acceptable.*

Conversely, many current members of the IMC are of the opinion that there is a better way to *mange the implementation* of the MSHCP. Some of the core values this group believes the IMC should subscribe to are identified in Exhibit VII-D.

Exhibit VII-D
Some Positive Core Values Recommended for the IMC

- Dysfunctional behavior is discouraged.
- A high value is placed on collaborative skills
- Members have relatively equal status
- Cohesiveness is high
- Committee and staff roles are understood
- The mission is clear and understood

Chapter VIII
Teams and Teamwork

A committee is a group that has been assigned a task by a parent organization or higher authority. The Implementation and Monitoring Committee is a group of people with different perspectives, interests and allegiances that was created to achieve a balance between:

- Long-term conservation and recovery of the diversity of natural habitats and native species of plants and animals that make up an important part of the natural heritage of Clark County; and,

- The orderly and beneficial use of land in order to promote the economy, health, well-being, and custom and culture of the growing population of Clark County.

The IMC is also a *team*. A team is a unique type of group in two important ways. First, a team has an objective – a specific goal that the team is trying to reach. The goal is usually thought of as something the team is trying to do, rather than something the team is trying to be. And the performance objective is usually concrete or tangible. Teams are groups of people who fight fires, design streets, plan neighborhoods, and in this case, the implementation and monitoring of a specific program. The goal of the IMC is the successful implementation of the MSHCP.

Second, reaching the goal requires collaboration. Collaboration is the dual presence of openness and supportiveness. It's the ability to raise and resolve the real issues standing in the way of a team accomplishing its goal, and to do so in a way that brings out the best thinking and attitude of everyone involved.

Among the top predictions of a team's effectiveness are the qualities of those who make up the team: the skill and competencies they possess, the types of people team members are, and how they behave is the most important quality they bring to the team table. The effective team member adds value by addressing issues, building confidence and trust, demonstrating personal leadership, and bringing out the best thinking and attitude of everyone on the team. In contrast, the dysfunctional team member erodes trust and makes it harder to get at the issues, make decisions, and move forward.

The Qualities Of An Effective Team Member

A successful team has to have the right people. In addition to the core competency of an adequate "working knowledge" that allows the individual team member to have sufficient experience to do the job well and having the necessary problem-solving abilities, there are a number of factors that distinguish effective team members. Effective teams are made up of members who are endowed with the characteristics of:

- **Experience –** Almost always the first thing a team looks for in its members is the "been there, done that" experience. The amount of relevant experience to the team's objective usually determines the status of team members.

- **Problem-Solving Ability –** Irrespective of how expert they are, some team members are good at solving the problems that inevitability arise as obstacles to a team's success. The team member who can figure out what will work and what won't, is seen by the other members as a valuable asset.

- **Openness –** Team members who help create a climate that promotes an open exchange of ideas are judged by others with having improved the team's performance. These are the team members who are willing to deal with problems, surface issues that need to be discussed and offer a point of view.

- **Supportiveness –** The core of this trait is a desire and willingness to help others succeed. These are the team members that are willing to listen to others' ideas; to encourage when someone's confidence is wavering; and to make a successful work environment. A team that is characterized by a combination of openness and supportiveness is likely to be successful in handling any problems that might come along.

- **Action Orientation –** Effective teams are usually teams that take action. Team members who are willing to make something happen; to encourage others to act; and, to try something different contribute significantly to the success of a team. These folks subscribe to the fundamental law of success: *Action is more likely to succeed that inaction.*

- **Personal Style –** Teamwork favors an environment where the team members are energetic, optimistic, confident, and fun to engage in work tasks. Those who are cynical, defensive and hard-to-work with throw cold water on almost any positive effort of a team.

Components of an Effective Problem-Solving Team

Team problem-solving is not necessarily harmonious; it is the constructive integration of diverse perspectives. Productive team problem-solving consists of sharing different perspectives and shaping them into a reasonable decision. Among the factors that distinguish good problem-solving teams are:

- **Focus –** Effective teams are very clear about what they are doing at each moment in their work. Whether they are discussing a topic, considering a problem, or weighing an idea, the team members concentrate on a single problem, issue, objective or strategy.

- **Climate –** Members of effective teams generally describe the atmosphere they work in as positive, relaxed and comfortable. The team members are made to feel wanted, important and competent. The climate characteristics of an ineffective team is generally tense, critical, cynical, stiff and inhibiting.

- **Communication –** Open rather than closed communication contributes significantly to the performance of a team. Members say what is on their minds and issues get surfaced for discussion. In contrast, teams that are less effective in problem-solving tend to be aversive.

Chapter IX
Findings and Recommendations

The best time to plant tree was 20 years ago.
The second best time is now.

Chinese proverb

This chapter contains the findings and recommendations resulting from the Program Management Analysis. It addresses issues within the Air Quality and Environmental Management Department that pertain to the Multiple Species Habitat Conservation Plan, the Desert Conservation Plan, and the Implementation and Monitoring Committee that need attention. The findings document the results of the consultant's review and analysis, and the recommendations identify specific actions that can be taken or evaluated for action to respond to the findings.

The Project Goals

The contributions to habitat preservation and management by the IMC members have been both groundbreaking and remarkable in quality. The IMC has accomplished much and should be acknowledged for its stellar pioneering efforts in the field of multiple species habitat conservation.

The main goal of this project is to conduct an analysis of the operating processes of the MSHCP and the IMC to assess effectiveness, efficiency, and accountability of the program and make recommendations for improvements to the program. In doing this the consultants have assigned their findings and recommendations in this section of the report to the following:

- Conflict of Interest
- The Budget Process
- IMC Membership
- Effectiveness of the Advisory Group
- Administration Effectiveness
- Role of the Administration
- Administrative Accountability
- Incidental Take and Role of the Permittees
- The Science Advisor
- Role of Contracted Administrative Consultants
- Other

The Significant Questions

The role of the IMC has shifted dramatically from plan development to that of *plan administration with a focus on program and project management.* In many ways, it is now a different game that needs to be played differently. In one way or another, the recommendations in this section are in response to three distinct categories of conflict that have emerged as "struggles" between the IMC and the agencies responsible for implementing the MSHCP. The three categories are:

- **Partnership** – Who are the partners in the MSHCP and what are their relationships and responsibilities to each other?

- **Roles, Power and Authority** – Is the IMC an advisory body or a program management body. If it is an advisory body, then what is it responsible for and what are its limits? Who directs the Plan Administrator and the Clark County staff assigned to the Desert Conservation Program?

- **Decision-Making, Consensus and Agreement** –How does the IMC define consensus and what determines when the IMC has reached agreement?

Changing Course

The consultants find that the IMC and the Desert Conservation Program staff have produced an incredible work product for Clark County and the State of Nevada. Created in 1989, the passion and commitment of the IMC members is rarely observed in government sanctioned programs. Nearly one third of the original members still serve on the IMC today, continuing to dedicate themselves to the preservation of endangered species as they have done for the past fifteen years.

The development of the MSHCP took place over many years in a relatively unstructured and non-traditional decision-making environment. The collective creativity that produced the *"Plan"* took place with the absence of formal leadership, rigid membership criteria and voting in an environment characterized by intensive public input, exhaustive debate, robust inquiry, and consensus.

"We are now in the business of managing contracts." This comment by one of the IMC's original and most knowledgeable members succinctly frames the issue. The comment is also consistent with the view expressed by the majority of IMC members who believe that:

> *The IMC needs to shift its collective energy and expertise from <u>plan development</u> to <u>plan implementation through contract management</u>; and, in doing so must develop a more structured organizational and operational framework to insure that the IMC meets the generally accepted standards and practices associated with government entities responsible for the expenditure of millions of dollars of public monies.*

A strong majority of the IMC advocate changes in the way the IMC conducts its business. Almost all of the changes advocated by this majority focus on the interest of creating a better and more businesslike meeting environment. When the Clark County Board of County Commissioners passed the May 7, 2002 Resolution in included provision for changing the way the IMC conducts its business. This provision, *"The Committee may establish such additional rules and procedures as it deems necessary or appropriate for the effective operation of the Committee."* gives the IMC the ability to modify the way it conducts its business.

To better manage contracts and implement the MSHCP, certain aspects of the way the IMC does business need to change. Changing how an organization does things means that it *will not be able to do business as it did in the past.* The upside of change is that, when done effectively, it will increase output, group satisfaction and operational efficiency. The downside is inevitable because when people are forced to adjust to change, especially when the outside parameters are very wide, as is the case with the IMC, there will be resistance and pain. Below are some of the ways the IMC might avoid the errors which often occur when organizational change is attempted in an advisory group created by a government.

Major change to an advisory group is usually impossible unless *the head (real or perceived) of the organization is an active supporter*. In the case of a group such as the IMC, the head of the organization is far more likely to be successful if he or she comes from the ranks of the committee membership rather than the Desert Conservation Program staff or the ranks of the paid consultants.

Efforts that lack a *sufficiently powerful guiding coalition of multiple leaders from within the organization will be limited.* The organization structure might be changed, but sooner or later, countervailing forces undermine the initiatives. They prevent structural change from producing needed behavior change and turn positive effort into muddied confusion. The establishment of a weak guiding coalition will result in what too many committees

turn out to be – a slow, political, aggravating body that devalues the efforts of the head of the organization.

In addition to strong leadership and a guiding coalition, *vision* plays a key role in producing useful change in the behavior of a committee by helping direct, align, and inspire actions on the part of a large number of the committee members. Without a sound vision that is effectively communicated, the IMC will not be able to make the changes it needs to create a more effective decision-making environment.

Occasionally, the roadblocks to change are only in the people's heads and the challenge is to convince them that no external barriers exist. But in many cases, the blockers are very real and often well-intended. The blockers disempower individual group members and undermine change. They contribute to meaningless, time-consuming and energy-draining distractions such as turf battles, power plays, conflicting agendas, indecision and bad decisions.

The recommendations contained in this chapter are designed to assist the IMC members and the staff to shift the direction of their collective role from plan development to plan implementation and contract management.

Findings and Recommendations

For report organizational purposes, the sub-goals of the project established by Clark County are used to categorize the Findings and Recommendations found in this section of the report. Because the overall objective of the study is to recommend *improvement opportunities*, the findings and recommendations should not be interpreted as negatives but rather ways to do things better.

Most of the recommendations found in this chapter are in response to three facts:

1. The IMC's mission has shifted dramatically from plan *development* to plan *implementation*;

2. The IMC oversees the biennium expenditure of more than $13 million of *public funds*; and,

3. The IMC must comply with the Nevada Open Meeting Law.

Conflict of Interest – *The consultant was asked to address the issue of conflict of interest with respect to IMC membership (including working groups of the IMC), and method of operation, particularly with regard to funding determination and recommendations for projects and contractors. This also includes, identifying specifically real conflicts of interest, perceived conflicts of interest, and potential conflicts of interest. The goal is to make recommendations to eliminate genuine conflicts of interest if so determined, to reduce or eliminate perceived conflicts of interest within the process where determined, and to prevent potential conflicts of interest.*

Finding No. 1 – Some of the IMC members have conflicts of interest with the business conducted by the IMC on behalf of the Board of County Commissioners.

There are a substantial number of situations in which IMC members are either directly or indirectly involved in the decision-making process whereby they benefit financially. (See Recommendation No.1**)**

Finding No. 2 – There is confusion among both the IMC members and staff regarding the applicability of the County's Ethics Policy.

There is a significant difference of opinion within the IMC regarding the application of the County's Ethics Policy to their particular situation and circumstances. (See Recommendation No. 1).

Finding No. 3 –There is a need to understand how the "reasonable person" test is applied with respect to conflict of interest matters.

The State of Nevada uses the "reasonable person" standard in the determination of what conflicts a breach of ethics by a government official.

Recommendation No. 1: The Desert Conservation Program staff should work with Department of Administrative Services and the District Attorney's Office to develop a comprehensive conflict of interest understanding and management program.

Because of the subject's pervasiveness, complexity and potential consequences, every member of the advisory committee should be well-versed in the Clark County Ethics Policy and its application. This is a serious and important matter because the advisory committee advises the Board of County Commissioners and makes biennium funding recommendations for public expenditures that: (1) exceed $34 million; and, (2) directly affect certain IMC members.

Although the responsibility for conflict of interest matters rests with the individual, the Desert Conservation Program staff should work with the Department of Administrative Services and the District Attorney's Office to develop a conflict of interest understanding and management program consisting of:

1. An ethics policy training session;

2. An ethics policy manual that includes relevant examples of conflicts of interests;

3. A review of each member's relationship with the IMC to determine whether or not a conflict(s) of interest exists, and if so, the appropriate way to manage it (declaration, abstention, etc.)

Finding No. 4 –There is nothing in the MSHCP Implementing Agreement or other key policy documents used by the IMC that addresses the conflict of interest issue.

This absence of definition lends to the confusion and misunderstanding that surrounds the conflict of interest issue as it pertains to the conduct of IMC members.

Recommendation No. 2 – Amend the Implementing Agreement or include in the advisory committee's charter and other documents as appropriate to reference the member's responsibility with respect to conflicts of interest.

Conflict of interest "management" and the individual committee member's responsibility should be included in the Implementation Agreement.

Finding No. 5 –The way the IMC reaches decisions on certain matters may violate the Nevada Open Meeting Law.

The IMC is subject to the Nevada Open Meeting Law and it frequently has action items such as the expenditure of funds and approval of contracts on its agenda. A copy of the relevant Nevada Revised Statutes is included in the Appendices.

Recommendation No. 3 – The County as Plan Administrator needs to implement policies and procedures that comply with the Nevada Open Meeting Law.

To be in compliance with the spirit, intent and letter of the Nevada Open Meeting Law, the IMC must:

1. Meet its quorum requirements;

2. Ensure the recordation of members present and absent;

3. Vote on those action items dealing with the expenditure of funds and approval of contracts; and,

4. Keep a record of the voting.

The District Attorney's Office is of the opinion that the consensus method of decision-making can be used for other internal actions of the IMC, but is not appropriate for actions related to expenditure of funds. In addition, IMC members often engage in serial communications or begin to deliberate outside of a public meeting, which is a violation of Nevada Open Meeting Law.

The Budget Process – *The consultant was asked to evaluate the MSHCP budget process with specific attention to the timelines and adequacy of time provided for the IMC review and prioritization of projects and criteria used for evaluation of proposals. Additional information regarding this subject can be found in Chapter III, The MSHCP Biennium Calendar and the Funding Process.*

Finding No. 6 – A large majority of the IMC is dissatisfied with the management of budget recommendation process.

When interviewed, almost every person expressed a desire for a better managed budget/recommendation process. The current process is encumbered with contentiousness and distrust among attendees. Some expressed dismay and the feeling that if certain factions don't get what they want, they will take it to the "6th Floor" and get their way, so what's the use? Most felt the meetings/budget process is a battlefield and that they must come prepared for war. The "consensus" process is viewed by most to be the "last man standing" approach. Many simply get tired of arguing at these meetings, want to go home, and *agree* just to put an end to the meetings.

Recommendation No. 4 – (See Recommendation No. 6)

Finding No. 7 – The credibility of the criteria used by the IMC to rank or prioritize proposals for funding should be examined for improvement.

Staff's recent attempts to force the IMC to use criteria met with much resistance. Ultimately, the IMC attendees used a multi-voting process whereby project funding (in a simplified manner) was determined by which project had the most dots, rather than which met the most criteria that was predetermined. Further complicating the process, which resulted in many complaints to the consultant, was the fact that attendees indiscriminately were allowed to place dots. Most stated that they felt the "voting" was skewed, as there was no determination of who could vote, and who was actually a member of the IMC.

Recommendation No. 5 – (Same as Recommendation No. 6)

Finding No. 8 – Project recommendations are deliberated on by all meeting attendees.

The inclusion of any meeting attendee who wants to participate in the decision-making process creates confusion with respect to member responsibility and

accountability. While discussion by all attendees may be appropriate at times, it gets muddy when decisions are being made. Many IMC members feel that decisions are too heavily influenced by attendees that are ill informed, are not regular attendees or are multiple in number. There are sometimes contractors present that some IMC members feel get "privileged" or early information regarding proposals.

Recommendation No. 6 – If the advisory group reviews proposals, establish Criteria or values for the members to evaluate all proposals.

The members of the advisory committee attending meetings should be clearly identified as the *official* members, and only official members should be involved in developing recommendations. The advisory group should develop sound criteria on which to evaluate all proposals. This will provide a credible and reasonable process for evaluation to determine which proposal best meets the needs of the MSHCP.

Finding No. 9 – The Federal Agency stakeholders would like to receive the BAMR information earlier.

There was sufficient feedback from Federal Agency stakeholders that in planning their individual agency's budget/work schedule and to better meet the MSHCP goal, they would like to get the BAMR produced earlier.

Recommendation No. 6 – Evaluate the possibility of getting the BAMR to Federal Agency stakeholders sooner.

Getting this information earlier would benefit the agencies in directing their projects and workloads (DCP-funded or not) as they relate to the MSHCP. This particular item was not a criticism, but rather an attempt to

better interweave the multiple agency efforts, since the mitigation occurs 90% on federal lands. Each federal agency has priorities within their own agencies that may not be the same as the MSHCP's. In addition, several agencies do not have full time or specifically funded staff to dedicate to the MSHCP.

Finding No. 10 – The budget timeline needs to be adjusted.

The current timeline does not provide the Desert Conservation Program staff with sufficient time to review funding proposals and the FWS needs more timely information regarding the contract applications that are prepared for budget approval.

Recommendation No. 7 – Evaluate the budget recommendation and adjust the timeline if necessary.

Moving the timeline ahead one to two months would solve several existing problems. It would (1) allow Desert Conservation Program staff sufficient time to review funding proposals; (2) allow the BAMR report to be produced earlier; and (3) get more timely information to the federal agencies for their review and comment.

IMC Membership – *The purpose of this category is to evaluate the effectiveness of the IMC role as an advisory group to the BCC in terms of the size and membership of the group needed to adequately and fairly evaluate proposals for funding of conservation actions and mitigations, implementation and monitoring of the MSHCP..*

Finding No. 11 –There is substantial confusion within the IMC regarding who is a member, ex-officio member, non-member and contractor.

Many of the IMC members cannot distinguish County appointees from other stakeholders. There is a significant difference of opinion among the IMC members with respect to their relationships to each other and what are their responsibilities to each other.

Recommendation No. 8 – Distinguish the official members from the general public, other interested parties and staff at meetings.

Knowing who is, and is not, a member of the IMC during meetings is important to all of the stakeholders, interested parties, and general public. This can be done by using nameplates, calling the roll, distribution of a membership list and a separate seating arrangement similar to that which is used by the Clark County Plan Commission and Community Development Advisory Committee. As is the case with other Clark County entities, the general public should be restricted to speaking at a designated time(s) on the meeting agenda rather than being allowed to "speak at will."

Finding No. 12 – There are no formal alternate appointees to represent the interest groups if the member is absent.

Currently there is no formal way for an interest group to be represented if their appointee can not attend a meeting of the IMC. It is not uncommon for someone to claim they are standing in for a missing committee member. These "stand-ins" may be ill-informed regarding current discussion items or may not be officially recognized as alternates by the group they claim to represent.

Recommendation No. 9 – Consider the appointment of an alternate member for each interest group on the advisory group.

The appointment of an alternate for each interest group would officially determine who is standing in for an absent member and gives them the official power to vote. In addition to clarifying who represents a member who is absent, this is also an opportunity to groom replacements for the advisory committee. If an alternate attends with the official member, only one voice should be allowed during the discussion and only one vote should be allowed per appointment.

Finding No. 13 – There are no term limits for membership.

Current members of the IMC are automatically appointed each year if they wish to continue to serve.

Recommendation No. 10 – Reasonable term limits should be imposed on the advisory committee membership.

While long-term membership is desirable because it brings historical knowledge and institutional experience to the table, it frequently impedes change, fresh ideas and new approaches to problem-solving. Reasonable terms and a staggered replacement schedule will help balance new approaches with the need for institutional knowledge, while maintaining inclusion of all the appropriate interest groups.

Finding No. 14 – There is no definition of membership on working groups.

While the guiding documents identify certain members to serve on working groups, they do not specifically identify membership. The confusion is compounded by non-members involvement.

Recommendation No. 11 – Restrict the membership of a working group to those who have been appointed to the advisory committee and their officially designated alternates.

This action would define who is a member of the working groups but does not restrict other interested parties from attending working group sessions.

Finding No. 15 – Most members of the IMC feel that the size of the committee is too large to be effective.

The IMC has 30 members and a significant number of other meeting participants who participate as *members* which results in a very large and cumbersome group. While perhaps this served as the genius of the plan development responsibilities of the IMC, the current size of the committee and activities does not lend itself to the efficient management of a plan responsible for contracts and programs.

Recommendation No. 12 – Consider alternative committee structures to address the functions of the advisory group.

The IMC is a relatively large leaderless group that is responsible for the implementation of the plan it created (the MSHCP). Reducing its size to the spectrum of interests that *need* to be represented would be beneficial to the decision making process. Also, consideration should also be given to utilizing the steering committee concept. Using this approach the, steering committee members would be selected from the existing interest groups. For example, the permittee cities of Henderson, Mesquite, Boulder City and North Las Vegas could be represented on the steering committee by one member from the permittee cities group. Among the examples of interest groups within that IMC that could be able to be represented on a steering committee would be the conservation interests, the federal agencies, state government interests, rural and Town Advisory Boards, etc. Another option would be to develop an executive committee which could be comprised of the chairs of the Working Groups and the IMC chairperson.

Included in Appendix G, are pages from the Lower Colorado River Multi-Species Conservation Program Funding and Management Agreement that has been included as information regarding the Steering Committee concept.

Finding No. 16 – The IMC would benefit from a designated chair.

A designated chair is a person elected or appointed to chair the group.. There is a need for a member of the advisory group to function as its formal chair.

Recommendation No. 13 – Institute a process by which a chair can be selected from among the membership of the advisory committee.

There is a significant need in terms of meeting management, liaison with the staff, and agenda setting for the advisory group to be lead by one of its members. A chairperson (either voted on by the group or appointed by the Board of County Commissioners) would fill the leadership void that exists. Another option would be for the group to recommend a chairperson to the BCC for official appointment.

Finding No. 17 – The membership numbers are skewed and do not provide for equitable "interest" group representation.

Some of the interest groups have much more representation on the IMC than do others. For example, while the development community has one representative (who represents more that 700 stakeholders), the conservation group has several representatives on the IMC.

Recommendation No. 14 – Determine which interests should be represented and then appoint a primary and alternate representative from each interest type to the advisory committee.

This recommendation to level the playing field for all stakeholders corrects a fairness deficiency that gives certain interest groups more horsepower at the IMC meetings than others.

Advisory Group Role – *The findings and recommendations in this category examine the status of IMC membership to determine if it fairly and adequately represents the public and key stakeholders, and to determine if committee members representatives, if agency personnel, are of sufficient authority to fully represent their agency in IMC recommendations to the BBC.*

Finding No. 18 – Some of the committee members lack sufficient authority to adequately represent their agencies at the IMC meetings, especially the budget review meetings.

Some of the agencies are represented by staff who do not have sufficient authority to make commitments for their organizations. This limitation restricts the IMC's ability to conduct its business in a timely manner. To a certain extent, this is a reaction to the length of the IMC's meetings and the way it conducts business. For example, rather than sending their "decision-makers" (assistant city manager or appropriate department head) to represent them, the permittee cities send junior staff because they can't afford to lose their senior staff to a monthly day-long meeting and working group meetings. It is also apparent that the senior staff at the permit cities resist IMC participation due to the "climate" of the meetings.

Recommendation No. 15 – Individuals appointed to the IMC should have the status and rank necessary to act on behalf of their organizations.

Members should be able to "speak" for the organizations they represent and make commitments on behalf of their organizations as they pertain to MSHCP most matters.

Finding No. 19 –There is apparent confusion with respect to the role and responsibility of the IMC and the Desert Conservation Program Administrator; and, some members of the IMC believe they have direct input with respect to the selection, retention and management of the Desert Conservation Program staff.

While the senior managers responsible for the Desert Conversation Program (Director of Air Quality and Environmental Management and Assistant County Manager) are of the opinion that the IMC is an advisory committee limited to a collaborative relationship with the Desert Conservation Program staff, as are the consultants, some of the IMC members feel differently. These differences of opinion are illustrated by the following questions:

1. Is the IMC an advisory body or a program management body?

2. If the IMC is an advisory body, then what are its responsibilities and limits?

3. Who directs the Plan Administrator and the Clark County Staff assigned to the Desert Conservation Plan?

Recommendation No. 16 – Amend the language of the Program's guiding documents including the Resolution to Confirm the Implementation and Monitoring Committee of the Clark County Desert Conservation Program to clearly define the role of the IMC as being advisory to the BCC. In addition, clarify that the role of the Administrator is to convey advise from the advisory committee to the BCC along with staff recommendations and that the Administrator reports to the Director of Air Quality and Environmental Management.

Sections 2 and 4 of the resolution that establishes the IMC, its membership and mission, addresses the role and responsibility of the IMC and the Desert Conservation Program Administrator. If the Resolution is studied in its entirety most readers would conclude that the relationship between the IMC and the Program Administrator is intended to be a *collaborative* one (Section 2.a – *To work in collaboration with the Desert Conservation Program Administrator*…and Section 4.b – *As much as possible, the Administrator shall seek prior consideration and recommendation of the Committee).* Collaboration is usually defined as the act of *working jointly with others (usually in intellectual endeavors)* and not associated with a superior-subordinate relationship.

It is also unlikely that the Board of County Commissioners would task a loosely structured advisory committee with any managerial responsibilities over the County staff that is responsible for the Desert Conservation Program. But sprinkled throughout the Resolution are oblique references to the IMC "directing" the Program Administrator that contribute to the confusion. If, in fact the BCC wants the IMC to have managerial duties and responsibilities, and actually supervise the Desert Conservation Program, then the "Resolution" should specifically say so. Any proposed amendments should be drafted by the District Attorney's

Office with appropriate input from the Director of Air Quality and Environmental Management.

Finding No. 20 – There is a high level of distrust among the IMC members, a feeling that the meetings are not the appropriate forum of fairness, and confusion because the IMC meetings are conducted without clearly written policies, procedures and rules.

Many IMC participants feel distrust for other committee members and meeting participants. Some feel distrust for staff and some distrust the Federal agencies. Lack of identifiable rules, roles and policies that allow participants to interface with each other in an uncertain atmosphere are not in the best interest of the public, often causing the IMC and Staff to spend far too much time debating and discussing process and authority matters.

Recommendation No. 17 – Put in place a comprehensive set of written policies, procedures and rules for the advisory committee.

A manual that contains all of the policies, procedures and rules used to guide the activities of the group should be developed for use by the members, the Desert Conservation Staff and other interested parties, including the public. This information should be of sufficient detail to clearly establish the protocols, processes and procedures used by the group to achieve its mission. The Program Manual developed by the staff for the Community Development Block Grant Program is an excellent example of this.

Finding No. 21 – Some IMC members and frequent meeting participants often "answer shop" the staff and/or bypass the County's administrative chain of command when it serves their purposes.

There are certain participants in the process that will either "answer shop" the staff for the response they desire, and/or bypass the Desert Conservation Program's chain of command, going directly to the Assistant County Manager, County Manager or County Commissioners when it suits their needs. And, there are those who believe that they have the power to have staff removed from the Desert Conservation Program if they want to exert their political power. These back-channel practices (calls, visits and correspondence to the "Sixth Floor") create confusion, misunderstanding and distrust within the IMC and the staff.

> **Recommendation No. 18 – Advisory committee members should be required to exhaust the administrative chain of command before "going political" to resolve problems or concerns.**
>
> Generally speaking, an unhealthy dynamic which is costly to the taxpayer is the result of bypassing the chain of command in a public agency. In their zeal to get things done "their way" these people contribute to the un-raveling of the trust and good faith that are critical components to a program involving volunteers and professional staff.

Finding No. 22 – There is significant redundancy of the work accomplished in the Working Group setting and IMC meetings.

It is not unusual for the subject matter discussed in the Working Group meetings to be repeated and debated at length during a meeting of the IMC. The working groups put in a great deal of time and effort only to have the IMC completely "rehash" the issues. This results in a lot of wasted member, attendee and staff time. Currently, there are too many working groups to staff effectively.

In addition, some working groups overlap on the issues that other groups work on. This has been recognized by the Desert Tortoise and the Fencing working groups which have recently been combined.

And lastly, as succinctly stated by one veteran IMC member, there is a tendency for "meeting moths" to jump at any chance to meet. This results in lost time for everyone.

> **Recommendation No. 19 – Review the work tasks for each working group, reduce the number of working groups if possible, and establish a clear charter of duties and responsibilities for any necessary work to be done.**
>
> Review the work tasks for each working group. Where redundancies are found, assign to only one group. Advisory committee members should recognize the expertise and value of the work of the working groups and accept the reports and ask only questions for purposes of clarification. Major issues should not be readdressed; if the entire group is going to debate the working group issues, disband the working groups. Meet and discuss only salient issues. Allow staff (not the working groups) to address technical issues. If current practices continue with the working groups, more staff must be added to effectively support.

Finding No. 23 – IMC members express considerable dissatisfaction with the way the Working Groups operate.

These concerns and questions range from "what are the notice requirements?" to "how does a working group topic get moved up to the IMC?" to "what's the purpose – the committee rejects or changes most working group recommendations."

> **Recommendation No. 20 – Develop a set of written guidelines for the Working Groups.**

The development of a simple set of operating guidelines would allow the Working Groups to be more productive.

Finding No. 24 –The IMC's effectiveness and work product are diminished when some members fail to read and study materials given to them in advance of the monthly meetings.

Effective group discussions, the kind necessary to solve the complex problems that the IMC routinely faces, cannot take place if the members aren't prepared. Group dynamics change for the worse when its members are not prepared for the meeting.

Recommendation No. 21 – Each member needs to read and study meeting materials so that they can be an effective participant when the subject matter is discussed during meetings.

The work of the committee, and the product it produces, will both be better if each member has sufficiently studied the meeting materials that they receive prior to the monthly meetings. When meeting participants try to "catch-up" at a meeting it is usually at the expense of other's time. When appointees repeatedly come to meetings unprepared, the County should have a mechanism for their replacement.

Consideration could be given to having the staff post summaries of the material on the Desert Conservation Program's web site. However, this would add an unnecessary burden to an already overworked staff. Consideration should be given to including specific rules in the operating guidelines that would prohibit an unprepared member to request a delay in a conversation or vote simply because they weren't up to speed on the day of the meeting.

Finding No. 25 – Some of the Federal stakeholders expressed concern that some contractors are gaining an unfair competitive advantage because of the type of business conducted in working group meetings.

The NRS 241.020(1) provides that *"all meetings of public bodies must be open and public, and all persons must be permitted to attend any meeting of these bodies"* and NSR 241.015(3) defines a public body as *"Any administrative, advisory, executive or legislative body of the state or local government which expends or disburses or is supported in whole or in part by tax revenue or which advises or makes recommendations to an entity which expends or disburses or is supported in whole or in art by tax revenue…"* Therefore, the tasks conducted by working groups should refrain from providing an unfair competitive advantage to those from potential contractors who may attend and participate.

> **Recommendation No. 22 – Working Group meetings must be conducted in public and in accordance with the Open Meeting Law.**
>
> In addition to opening the meetings to the public all Working Group Meetings must comply with the appropriate NRS in terms of notice, posting of notice, etc.

Finding No. 26 – IMC members express frustration with respect to the manner in which Working Group meetings are conducted.

The concerns mentioned most frequently by IMC members about the Working Group meetings are: (1) they are leaderless; and, (2) anyone (contractors, consultants, general public) who attends can participate as a member.

> **Recommendation No. 23 – Each Working Group should have a chairperson to be responsible for leadership and facilitation of the meetings.**

This relatively simple organizational change should help the Working Groups conduct their business in a more efficient manner.

<u>Administration Effectiveness</u> – *An evaluation of the structure and effectiveness of the MSHCP administration, including staffing levels and roles in implementing and monitoring the MSHCP is discussed in this section of the report.*

Finding No. 27 – More staffing assets are necessary for the contract management responsibilities of the Desert Conservation Program.

While the Program strengthened its ability to manage contracts by adding a Sr. Management Analyst between 2001-2003 and 2003-2005, there is still a need for additional contract management staff. Currently the Sr. Management Analyst devotes approximately 75% of her time (30 hours per week) to contract management, assisted by an Office Specialist who devotes approximately 35% of her time (14 hours) to contract management matters.

Experience and workload benchmarks indicate that an experienced contract manager, with appropriate inspectional and clerical support, can handle $7-10 million projects. The current *per staff* contract management workload handled by the Desert Conservation staff is more than $13 million.

The workload associated with the management of as many as 90 projects embodied in up to 70 contracts at any given time is time consuming and complex. Currently, the contract management that is provided by the Desert Conservation Program staff is "administrative" in nature, focusing on preparing requests for proposals, scopes of work, contracts and amendments; and, reviewing and approving work authorizations and invoices. Ideally, the contract manager should be involved to the extent that he/she is providing the oversight and involvement

necessary to ensure that all schedules, budgets, performance expectations and deliverables are being met.

The current staffing limitations result in contract *processing* rather than contracts being *managed*.

Recommendation No. 24 (Same as Recommendation No. 30)

Finding No. 28 – The Desert Conservation Program's budget management responsibilities are complex.

The Desert Conservation Program staff is responsible for a multi-million dollar implementation plan and budget that must parallel Clark County's operating and capital budgets for each fiscal year. This equates to managing two budget process and two budgets that have to balance. In addition, the federal budget cycles and SNPLMA schedule also complicate matters.

Recommendation No. 25 – (Same as Recommendation No. 30)

Finding No. 29 – No specific staff is assigned the responsibility for the Mitigation Fees Assessment and Land Disturbance Program.

This purpose of this program is to oversee the assessment of mitigation fees and land disturbance tracking among Clark County and the cities of Las Vegas, North Las Vegas, Henderson, Boulder City, and Mesquite.

Recommendation No. 26 – (Same as Recommendation No. 30)

Finding No. 30 – There is a need for additional analytical and clerical support staff.

The Desert Conservation Program staff is a very competent and hardworking team that is overloaded with tasks, among which are IMC and Working Group support; public information and education; project, budget and finance management; permit compliance and GIS/database management; mitigation fee assessment and land disturbance; and, adaptive management. If the Desert Conservation Program is expected to adequately manage contracts and do the other tasks this study recommends (developing a comprehensive set written policies, charter changes, operating guidelines for Working Groups, coordinating ethics training, etc.), then additional staffing will be necessary.

Recommendation No. 27 – Conduct a complete workload analysis, implement more efficient ways of conducting daily tasks, and staff appropriately or adjust workload.

The addition of positions is necessary if the County wants a more active approach to contract management, project management, and mitigation fee assessment and land disturbance management.

Finding No. 31 –The Desert Conservation Program staff is frequently "assigned" tasks by individual IMC members.

Because of their passion, interest and hands-on approach to problems and issues, individual members of the IMC frequently generate tasks, assignments and mini-projects for the staff. A request for information, which can involve hours of a staff member's time, is the most frequent cause of these assignments. Because of their desire to accommodate IMC members there is a reluctance on the part of the Desert Conservation Program staff to say "no" even though these *backdoor* assignments this form of workload creep is very costly in terms of staffing hours.

Recommendation No. 28 – The administrative chain of command should be followed when involving the staff in activities that add to their workload.

Anything beyond the request for routine and easily accessible information by advisory committee members should follow the guidelines established by the Program Administrator.

Finding No. 32 – A project manager assignment system would benefit the Desert Conservation Program.

Project management is much more complex and comprehensive than contract management and the two should not be equated. The project manager should be the Clark County party responsible for the administration and outcome of the project, and is the employee who provides the day-to-day direction to the involved consultants and contractors.

Recommendation No. 29 – Assign a staff project manager to all moderate, significant and major projects.

The professional staff (Program Administrator, Adaptive Management Coordinator, GIS/Database Manager and Management Analysts) should be assigned specific project management duties along with their other duties. This may include hiring additional staff to cover the volume of project management responsibilities associated with managing up to 90 projects at a time.

Finding No. 33 – There is a need to assign contract/project management on the basis of complexity.

Currently, Desert Conservation Program projects and contracts are assigned on the basis of staffing resources and availability rather than on the basis of complexity and staff's experience.

Recommendation No. 30 – Assign contracts and projects on the basis of pre-established criteria that categorizes them according to a *complexity level* system.

The "level" categories developed by the Desert Conservation Program staff are adequately detailed for this purpose. The criteria is:

Level I

Expenditure range to $10,000. A minimal number of people involved, informal milestones and minor deliverables, informal project management requirements, no technical issues involved, low DCP priority and low visibility

Level II

Expenditure rang $10,001 – $25,000. A minimal number of people involved, definite schedule, formal schedule and milestones, small number of definite deliverables, minimal project management requirements, few technical issues involved, some DCP priority and visibility

Level III

Expenditure range $25,001 – $300,000. A few parties involved, important schedule, milestones and deliverables involved, some political implications, formal and substantial project management requirements, few technical issues involved, medium DCP priority and visibility

Level IV

Expenditure range $300,001 – $800,000. Multiple parties involved, important schedule, milestones and deliverables involved, significant political implications, formal and significant project management requirements, considerable technical issues involved, high DCP priority and visibility

Level V

Expenditure range $800,001 and beyond. Multiple parties involved, critical schedule, milestones and deliverables involved, substantial political implications, formal and substantial project management requirements, major technical requirements involved, critical DCP priority and high visibility.

Finding No. 34 – The addition of the Adaptive Management Coordinator has improved the overall process.

Most of the IMC attendees are optimistic that the recent addition of the Adaptive Management Coordinator will enhance the Adaptive Management Plan. Already the responsibility of producing the BAMR has shifted to the Coordinator. Confidence is high that the Coordinator will have time to evaluate progress of the MSHCP. The Coordinator should have time to do field verifications, something that was impossible in the past.

Recommendation No. 31 – Continue to support and expand the Adaptive Management portion of the MSHCP.

The addition of the Adaptive Management Coordinator has enabled the Program Administrator to more effectively manage her time and devote it to other areas of the program. The coordinator has filled the need for

coordination and communication between the Science Advisor and the AMST, as well as coordination between these groups and the IMC.

Finding No. 35 – There is a need for the MSHCP contractors to better understand the County's process for funding payment requests.

There is frustration over timing of funding of payment requests. Some contractors expressed a desire to obtain funding more rapidly.

Recommendation No. 32 – Prepare an overview of the County's invoicing requirements as an attachment to the contract award.

Upon inspection, many hold ups for funding were due to improper invoicing by the contractors. Prepare a simple sample "worksheet" or template for invoicing showing necessary dates, deliverables, and what constitutes proper reporting. This should alleviate future funding holdups due to irregular invoicing.

Finding No. 36 – The layers of management positions between the Desert Conservation Program Manager and the Director of Air Quality and Environmental Management should be compressed. Additionally, the relative magnitude , responsibility and complexity of the Program warrants a review of the position level of the Administrator and the position of the Program within the Department.

The chain of command between the Desert Conservation Program Manager and the Director of Air Quality and Environmental Management would be more efficient if it was modified so that one of the two levels of supervision in between is eliminated.

Recommendation No. 33 – Compress the chain of command to one position between the Desert Conservation Manager and the Director of Air Quality and Environmental Management.

Eliminating one of the middle managers the Desert Conservation Program Manager currently reports to will help streamline the decision making process.

Finding No. 37 – The MSHCP calls for a different RFP format than the County's approved RFP form.

The Program currently uses a form developed by staff in conjunction with the IMC. While the form certainly meets the needs of the IMC, it falls outside the acceptable and approved form of the County. This causes staff to spend extra time dealing with purchasing and legal departments that could be avoided.

Recommendation No. 34 – Use the County's approved RFP form.

There is no reason that the advisory committee and staff cannot use the County's approved RFP form It meets the purposes of the Program. Immediately begin using the County's RFP form and process.

Finding No. 38 – Internally there is a lack of clearly established and consistently recognized roles, responsibilities and authority for managing and implementing the Plan and Permit.

There has been an unofficial redefining of the Plan Administrator from a Clark County management position to that of "Clark County." This shift has caused confusion and frustration among both the staff and program participants, permit partners and federal agency staff and the regulator.

Recommendation No. 35 – Clarify what or who the Plan Administrator is and the roles of the Environmental Planning Manager and the Assistant Planning Manager.

Day-to-day operational issues and disputes are frequently elevated above the DCP staff and Plan Administrator when members of the IMC or participants don't agree with them. This type of management intervention, no matter how well-intended, generally results in a deterioration of staff effectiveness and morale. With the exception of very unusual situations, management should not intervene with the administration of the Desert Conservation Program.

Finding No. 39 – The effectiveness of the staff member responsible for contract negotiation and administration is reduced when upper management is asked to intervene on a regular basis.

The intervention referenced occurs when contractors and IMC members bypass the Desert Conservation Program staff for the answers that best serve their purposes. This frequently happens when a contractor wants to change the terms in the contract he/she agreed to.

Recommendation No. 36 – Develop a dispute resolution process outside of the administrative chain of command to be used when contractors are unwilling to accept a decision made by the staff's contract manager.

The development of a dispute resolution process and its consistent application will provide for a process that can replace most of the direct intervention by upper staff.

Finding No. 40 – The MSHCP would benefit if the IMC and Desert Conservation Program staff used meaningful indicators to measure its performance.

By developing meaningful indicators the performance the IMC can establish objectives that the Desert Conservation Program staff can be measured against on an objective basis.

> **Recommendation No. 37 – Develop performance indicators that will measure output as it pertains to the MSHCP.**
>
> The use of meaningful performance indicators that measure efficiency, outcome, output and input will contribute to the success of the Desert Conservation Program in terms of strategic planning, operational planning and control, program evaluation, resource allocation and accountability.

Finding No. 41 – A significant number of contractors fail to provide the DCP staff with sufficient contract management information.

This results in the staff spending an excessive amount of time monitoring and requesting revised contractor submissions.

> **Recommendation No. 38 – Develop a "how to" handout that can be provide to all contractors.**
>
> In addition to "how to" explanations, this handout should contain examples of quality quarterly and final reports, invoices, budget comparisons, per diem requests and back-up documentation

Finding No. 42 – There is no Standard Operating Procedures document for developing contracts, scopes of work and managing contracts.

The lack of a written set of procedures is a cause for inefficiencies in the overseeing of contracts and contractors.

Recommendation No. 39 – Create a Standard Operating Procedures manual for developing contracts and scopes of work, closing out contracts, and invoice tracking.

The number, complexity, and value of contracts the DCP staff is responsible for is such that a high priority is attached to this recommendation.

Administrative Accountability – *The consultant's have evaluated the MSHCP administrative process for accountability purposes in this section of the report.*

Finding No. 43 – There is a need for additional financial auditing

The only portion of the program that has been audited in recent years is the collection, remittance, and deposit of development mitigation fees. While internal cash handling procedures have been revised within the past year in coordination with the Internal Audit Department, no other parts of the program have been audited.

Recommendation No. 40 – Increase the frequency of audits, using the Generally Accepted Auditing Standards (GAAS) as the guideline.

The level of funding (approximately $15 million in biennium 2003-4 and 2004-5), the number of programs (close to 100) and the amount of "contracted out" work drives the need for a more aggressive auditing posture.

Finding No. 44 – The IMC and staff does not have access to sufficiently specialized legal assistance and advice.

The current mission of the IMC, and the complexity of issues it will face in the future, are such that all parties would benefit from the services of a qualified environmental law attorney.

> **Recommendation No. 41 – Request that the District Attorney's Office assign an environmental law attorney to the Desert Conservation Program.**
>
> This assignment would provide the IMC and Desert Conservation Program staff with the *environmental law* resource that many members feel is currently lacking. Consideration should be given to funding this position in the District Attorney's Office with MSHCP revenues or cooperatively funded among several other County environmental programs that could potentially utilize such legal counsel (air, water quality, wetlands park).

Finding No. 45 – The Desert Conservation Program's contract administration is unique and complex.

The Program itself is unique, beginning with the crafting of the plan which was done by a group of widely diverse participants by consensus. This was a group of interests at cross purposes that "hammered out" a good plan that met agreement with all participants. Also unique is that 90% of the mitigated lands are on federal property. The program continues to be unique in that the administration is tasked with coordinating with many agencies and knowing policies, legal and political issues of multiple federal and government agencies. This particular aspect of the program creates confusion and frustration for the administration in their dealings

with the Clark County Purchasing Department, which, quite reasonably, is unaware of the intricacies of dealing with multiple government agencies.

Recommendation No. 42 – Request that the Purchasing Division give the Desert Conservation Program a much higher priority, consider funding a position in the Purchasing Division to be assigned to the Program, or consider funding a contract specialist position within the Program to help the staff develop better contracts and contract management documents.

The size, scale, and complexity of the Program's Requests for Proposal and contracting needs warrants a much higher priority within the Purchasing Division. The Program's extensive financial involvement with other federal, state and local agencies makes its Requests For Proposal and contract management needs not only unique, but extremely complex. This need for significantly more oversight, education and assistance from the appropriate purchasing official is one of this study's *most important recommendations.*

Incidental Take Permittees – *The evaluation of the participation and roles of the permittees to the Incidental Take Permit is included in this section.*

Finding No. 47 – Some permittee attendance is poor and most of the permittee representatives do not have sufficient authority to make decisions on behalf of the permittees.

Some permittee attendance has been historically poor. As identified in Finding No. 18, the most probable reason for poor attendance is the permittee cities can't afford to lose their senior staff to a day-long meeting every month and to attend the many working groups. In addition, it was stated by more than one of the permittee cities that they feel the meetings are often contentious and non-

productive and don't feel their employees should have to endure hours of "meaningless debate."

Some permittee cities expressed that they would like to have a better working relationship with the MSHCP staff. As stated in Recommendation No. 16, permittee representatives should have the status and rank necessary to act on behalf of their organization

Recommendation No. 43 – The County Manager should request that the City Managers of the permittee cities assign senior staff (department director or assistant city manager) to the advisory committee.

The presence of the permittee cities is a very important element of the MSHCP, since these permittee holders have a vested interested in the success of the MSHCP. All permittees should be actively involved with and aware of all situations that affect the MSHCP.

Clearly, the permittee cities are disenchanted with the process rather than the program. Every effort should be made to return them to the process as players.

The Science Advisor – *The consultant was asked to evaluate the participation and role of the Science Advisor to the MSHCP. Chapter VI, The Adaptive Management Plan and Science, provides some background information for these findings and recommendations.*

Finding No. 47 – A significant number of IMC members are of the opinion that a Request For Proposal should be developed for the Science Advisor to attract a broader base for scientific research.

The Science Advisor is tasked with and has responsible for providing science advice and technical expertise to the Plan Administrator, IMC and the (other) Parties as defined in the Adaptive Management Science Plan. In addition, the Science Advisor participates on the Adaptive Management Science Team and provides statistical and GIS support to the AMST and the Plan Administrator. Assisting in the preparation of the Biennial BAMR and developing and managing the CCMSHCP databases also fall under the responsibilities of the Science Advisor. The Science Advisor is also tasked with other issues to address conservation at the direction of the Plan Administrator.

The current Science Advisor is under contract until March 2006. This Science Advisor has been on contract since the inception of the Adaptive Management Science Plan. While the current Science Advisory Group's latest review involved credible criteria, and was consistent, organized and defensible, there is a desire to gain additional scientific qualifications and expertise for a more global review.

Within the IMC, there is a lack of credibility and distrust of the Science Advisor, due in part to the fact that the Science Advisor submits projects to the program. There is also concern that local scientists are not involved with the MSHCP.

The role of the Science Advisor has changed over the course of the MSHCP development. Prior to issuance of the permit the County entered into a contract with the current Science Advisor to develop the Adaptive Management Program**.** The role of a "Science based AMP contractor" is also described in the MSHCP. The current role of the Science Advisor is such that BRRC acts as the science-based AMP Contractor to provide scientific advice to the Service, the Federal Land Management Agencies, and the IMC and its Working Groups. Further, the Science Advisor is a defined member of the AMST.

What is now different than in the past is that Clark County has assumed the lead in the development of the BAMR, relying on the recommendations of the AMST and assistance from the Science Advisor. The County has the capacity under the existing SNPLMA contract to outsource necessary BAMR production tasks if necessary to fill any scientific gaps. As the role of the Science Advisor has changed and the plan has evolved into implementation, it is the time to assess whether there is a need for any additional scientific expertise.

Recommendation No. 44 – Write a Scope of Work and initiate a competitive Request for Proposals to fill the role of Science Advisor.

Due to difficulties involving expectations, credibility and contract management it would benefit the MSHCP program to go out to bid for the Science Advisor in the 2005-2007 biennium. Due to the evolution of the Plan and the scientific needs expressed in the BAMR, it might be appropriate at this time to review the composition of scientific expertise necessary for the Science Advisor and change as appropriate. This composition might include a specific scientific specialty, location criteria, etc. This RFP would need to meet the requirements of the MSHCP and adhere to Clark County contracting policies. The current Science Advisor should be invited to submit a proposal. This action might require an amendment to the MOA to solicit competitive bids. This would address the conflict of interest issue, the credibility issue and allow local scientists the opportunity, if qualified, to participate in the Clark County MSHCP.

Finding No. 49 – There is a feeling by some of the members of the IMC that the AMST should be broadened to include scientists from other areas of expertise and perhaps other agencies.

There was considerable expression that additional scientists could benefit the AMST. There was an interest expressed that other agencies should be represented

by "their" scientists and others simply felt that certain scientific "gaps" might be present. It was also a concern that the Science Advisor's presence on the AMST was uncertain as to who is actually the representative. Some members of the IMC feel the Science Advisor "stacks" the AMST by sending multiple people to the meetings.

As the MSHCP has evolved and the AMST has reviewed (and continues to review) proposals and projects, certain additional expertise may be needed. At times, there may not be sufficient AMST staffing to complete all anticipated AMST assignments.

Recommendation No. 45 – Review the AMST to ascertain that necessary scientific expertise is present. Add additional AMST if necessary.

The AMST should be evaluated on a regular basis (perhaps every biennium) to assess whether the appropriate *scientific* mix is present. If, upon review, it is determined that scientific expertise in a specific area is missing or deemed to need strengthening, additional scientific expertise should be added to the AMST.

The AMST should contain the necessary scientific expertise to adequately address the flexibility provided by the Adaptive Management Science plan for engagement of additional experts through subject matter Expert Teams or Independent Review Teams should compensate for any gaps in AMST member capacity.

Membership in the AMST should further be defined to identify how the science advisor should be represented (who and how many) and the role should be clarified.

Finding No. 50 – There is a concern by some IMC members that some of the Science Advisor's projects go into a "black hole."

The Science Advisor currently has projects being funded by the MSHCP. It is seen by some IMC members that the progress reports of these projects is largely irregular and the status is unknown to the IMC.

> **Recommendation No. 46 – The Science Advisor should cease submitting project proposals.**
>
> As previously addressed in the conflict of interest section of this report, the Science Advisor, as a contractor to the County and the MSHCP, should not act as a proposer on any projects This will alleviate any real or perceived conflicts of interest.
>
> However, the Science Advisor's current projects should be documented in the same format established for all science and project reporting. These projects should be finished as quickly and feasibly as possible.

Finding No. 51 – There is a concern by many members of the IMC that Science Team members are in violation of the 8/19/03 document defining science teams.

This document states that "The AMST will adhere to a code of ethics patterned after the USDI "Code of Scientific Conduct" which states that "*To serve on the review teams, scientists must have proper credentials and must not be affiliated with or otherwise stand to gain from any entity whose proposal or project is being reviewed.*"

Recommendation No. 47 – The members of the AMST should review their actions and activities for compliance with the "Code of Scientific Conduct."

The ethical ramifications and conflict of interest consequences of non-compliance with the 8/19/03 document defining science teams are significant and warrant the IMC's review and consideration.

Administrative Consultants – *The participation and roles of contracted administrative consultants of the MSHCP program are evaluated in this section of the report.*

Finding No. 52 – Some of the work previously done by the administrative consultants to the MSHCP is now being performed by the staff or others.

Some of the consulting work has shifted from one consultant to another, and some of the work previously done by a consultant has been absorbed by the staff.

Recommendation No. 48 – Reduce the IMC's reliance on administrative consultants.

With the shift from plan development to plan implementation, and the addition of more staff, the need for administrative consulting assistance is considerably less than it once was. If the recommendation to assign an environmental law specialist to the Desert Conservation staff (See Recommendation No. 41) is implemented, then the need for administrative consulting assistance will be reduced even further.

Finding No. 53 – There is a substantial difference in opinion among the IMC members/ participants as to who the administrative consultants are working for.

There is confusion with respect to who the administrative consultants are working for, i.e. Clark County, the IMC or "the Plan."

Recommendation No. 49 – Obtain a legal opinion from the District Attorney's Office that determines who the administrative consultants are working for.

The consultants were unable to find any conclusive information that would lead one to believe that the administrative consultants are working for any agency or entity other than Clark County. The contracts employing the administrative consultants are prepared, funded and managed by Clark County. It is the Desert Conservation Program staff that manages the contractors working on the MSHCP.

Other – *These are findings and recommendations that do not fit in the specific categories previously identified in the above.*

Finding No. 54 – There is a need for sexual and workplace harassment training.

This unacceptable behavior which has occurred more than once during committee activities appears to be isolated and may be the result of ignorance. But the emotional and financial consequences that can result from this form of behavior are far too serious for toleration.

Recommendation No. 50 – Provide the IMC with a training session on sexual and workplace harassment.

It would be beneficial if the IMC was provided with the same level of training that Clark County employees receive regarding sexual and workplace harassment.

Finding No. 55 –The MSHCP would benefit from the Program's development of a strategic plan.

The timing is right for the Program to go through the strategic planning process. As the Program shifts towards the management of projects and programs designed to implement the MSHCP, the need for a well-developed strategic planning process would be beneficial to guide funding, budgetary, operational and organizational decisions.

Recommendation No. 51 – Develop a strategic plan.

Setting the direction of the MSHCP through the strategic planning process will be a valuable exercise for the IMC members and the Desert Conservation Program staff. This effort would compliment one of the important goals of the Air Quality and Environmental Management Department's strategic plan which is to "*Work with the MSHCP Implementation and Monitoring Committee (IMC) and agency and permit partners to make the IMC process more efficient, effective and accountable.*"

Once completed, the strategic plan becomes a reference point for decisions related to the direction the IMC desires to move, and will provide all of the stakeholders with an understanding of what and how the IMC intends to do things in the future.

Finding No. 56 – Most members of the IMC believe that their meetings have improved with the aid of the meeting facilitator.

A solid majority of the IMC report that the use of the current meeting facilitator has improved the conduct of the monthly meetings, and has improved the budget process.

Recommendation No. 52 – Continue the use of a meeting facilitator.

The current facilitator has helped greatly reduce the meeting times and redundancy of discussion and has helped create a more professional behavior among the meeting attendees. The facilitator has also helped with making sure that issues are appropriately catalogued for future discussion, thereby helping attendees to not insist the issues be discussed at that particular moment, whether appropriate or not. This has built confidence among the meeting attendees. The use of a facilitator should continue until that time that facilitation services are no longer needed.

The successful consideration of a number of the recommendations (operating guidelines, strategic planning, charter modifications, etc.) will require the skills of not only a competent facilitator, but one who is familiar with the IMC and habitat conservation plans.

Finding No. 57 – The annual cost of IMC meetings is over $300,000.

The costs associated with the monthly IMC meetings without the Working Groups are summarized in Exhibit XI-A. If the cost of Working Group meetings are included, meeting costs easily exceed $300,000 on an annual basis.

Exhibit XI-A
Average Cost to Conduct an IMC Meeting

DCP Staffing Costs Per Meetings	$6,271
Paid IMC Members Cost (21 members/mgt., $40/hr. x 8/meeting)	$6,720
Paid Advisors Cost (Rural Rep., CC Advisor, Facilitator)	$10,000
Catering	$550
Monthly Meeting Costs	**$23,541**
Total Year ($23,541 x 12)	**$282,492**

Recommendation No. 53 – Consider organizational and operational changes to the IMC that would reduce meeting costs.

There are a number of realistic options that can be used to reduce the cost of IMC meetings. Among them would be the selection of a chairperson or co-chairpersons from the membership; replacement of the full membership with a steering committee for meetings; a reduction in the County paid consultants and advisors attending the meetings; and, the practice of allowing non-members to indiscriminately debate with the appointees during the meetings.

Finding No. 58 – There is considerable concern among the IMC members regarding the distribution of legal resources.

The legal services related question most frequently asked of the consultants by IMC members was "Why is the County paying for a lawyer to represent the rural

interests but not other interests represented on the IMC?" The second most frequently asked question is "Is Attorney Paul Selzer the IMC's lawyer?"

Recommendation No. 54 – The Desert Conservation Program's chain of command should review the legal representation and provide the IMC with guidelines

These "who represents who" questions are fair and relevant ones that need to be considered by those responsible for deciding the level of legal services Clark County is willing to make available to the members of the IMC. Recommendation No. 44 (Assignment of an environmental law specialist to the IMC from the D.A.'s Office) should be considered as part of any legal services review.

Finding No. 59 – There is a need for the Program to influence the extent to which research findings are made available to the scientific community, likely users and the general public.

This finding is based on the assumption that the application of the findings resulting from MSHCP sponsored research is to be shared with as many people and organizations as possible.

Recommendation No. 55 – Develop a strategy for the dissemination of research information.

A formal effort by the IMC to make its research finding available to as many people and organizations as possible will help validate the Clark County MSHCP research efforts and the costs associated with them.

Recommendation No. 56 – Require every project to participate in "mini-symposiums" where the contractors would present information on their projects to their peers and other interested parties, including the general public and media.

This would be a valuable tool with respect to keeping the contractors accountable for their work**;** sharing the research information with a larger audience; and, would allow the Adaptive Management Coordinator to evaluate project success and applicability to the program. It would also serve as an informational tool to educate the public.

Finding No. 60 – The MSHCP database needs to be review and revamped.

The current database limits the ability of the staff to manage the Desert Conservation Program effectively.

Recommendation No. 57 – Modify the MSHCP database and develop a new "report" section that would help to guide the contractors in providing a better quarterly report product.

Making the database more user friendly, and giving it the ability to send out quarterly report due date reminders and queries of project status would improve the staff's ability to better manage contracts. Developing a report section on the database would help contractors in providing accurate, up-to-date and thorough information in their quarterly reports.

Finding No. 61 – The project site visit aspect of the contract management program needs to be expanded.

Because of time constraints and workload the DCP staff is unable to visit project sites to the degree necessary.

Recommendation No. 58 – Develop an SOP requiring the DCP contract management staff to visit project sites submit site visit reports.

To make sure that a project is progressing as stated in the contract documents and that these activities stay on track, it is necessary for the contract managers to visit the project site and attend project meetings.

Finding No. 62 – The Desert Conservation Program would benefit from an internal "business systems" review.

When the Permit became effective in 2001 Clark County was required to immediately begin operating the Program without the benefit of a business systems review. Managers from the Departments of Finance and Building Services, and the District Attorney's Office should be involved in this process.

Recommendation No. 59 – Retain a qualified business systems consultant to develop the systems necessary to operate the "business" component of the Desert Conservation Program.

Among the activities reviewed should be those related to tracking budget and operational expenditures, mitigation fee assessment and reconciliation, contract development and contract management.

Finding 63 – A single charter document for the IMC does not exist.

The current "charter" for IMC responsibilities and activities are found in a variety of documents, some of which are conflicting.

Recommendation No. 60 – Draft a single comprehensive charter document.

The key elements of a group charter include written documentation of the group's purpose and scope of work, membership, and operating guidelines, including the decision making process. Exhibit IX-B contains the essential components of a charter the IMC might consider as a model.

Exhibit IX-B
Model Charter

I. Official Designation
The official name of the IMC would be identified in this section of the charter.

II. Objectives and Scope of Issues
The purpose of the IMC and the issues it is responsible for addressing would be identified in this section.

III. Mission Statement
The IMC's mission would be explained in this section.

IV. Stakeholder Membership
The balance, diversity and length of terms of the IMC's membership should be explained in this section, along with the identification of stakeholder interests.

V. Duties of the IMC
The specific duties (advisory, program management, etc) of the IMC are identified in this section.

VI. Frequency of Meetings
The section is used to identify minimum number of annual meetings, meeting dates and public notification requirements for the IMC.

(Model Charter Continued)

VII. Chairperson and Vice Chairperson

The leadership positions, terms and responsibilities are found in this section.

VIII. Vacancies

This section is devoted to an explanation of the process for filling vacancies.

IX. Decision-Making

This section is used to detail the way major policy, major procedural and minor procedural recommendations are to be made.

X. Role and Responsibilities

The roles and responsibilities of the IMC, the Chair, Vice-Chair or Co-Chairpersons; the Plan Administrator, Facilitator, and Clark County support staff, are identified in this section of the charter.

XI. Committee Structure

This section is used to describe the purpose and functions of executive or steering committees; working groups and task forces.

XII. Conflict of Interest

The IMC members' responsibility as it pertains to conflicts of interest is explained in this section.

Finding No. 64 – The Desert Conservation Program is not adequately staffed to complete the Program Management Analysis document development recommendations in a timely manner (by January 1, 2006).

A substantial number of the recommendations in this Program Management Analysis (Recommendations No. 17, 20, 38, 39 and 60) involve the development of comprehensive documents that will require a considerable amount of research and writing. Assigning this to the existing staff will be counterproductive, causing other essential tasks to be postponed.

Recommendation No. 61 – Retain outside expertise to assist in the development of critical operating documents.

Consider using the temporary services of a technical writer or consultant to assist the staff in developing a comprehensive charter, contract management SOP, Working Group Guidelines and a comprehensive set of written operating policies and procedures.