SACOG

Transportation Committee

Item #14-6-6B
Information

May 29, 2014

Habitat Conservation Plans/Natural Communities Conservation Plans Development

Issue: What is the status of the current Habitat Conservation Plans/Natural Communities Conservation Plans and how do they relate to the Metropolitan Transportation Plan/Sustainable Communities Strategy?

Recommendation: None, this item is for information and discussion.

Discussion: The Blueprint and the SCS growth patterns both rely on significant amounts of infill growth but also growth in new master planned communities largely at the existing urban edges of the region. Many of those master planned communities, especially in southwest Placer County and southwest Sacramento County, are on land that has significant natural resource issues regulated by the federal Clean Water Act, Endangered Species Act, or both. Resource agencies, developers and environmentalists alike mostly agree that the preferred way to serve the twin goals of resource protection and urban development is at a large scale rather than on a project by project basis.

The most commonly used term for large-scale plans to protect resources as well as enable development is a Habitat Conservation Plan (HCP), which is a planning and regulatory document associated with the Endangered Species Act (ESA) and administered by the US Fish and Wildlife Service (USWFS). Many of the prospective developments in the Sacramento region, however, also must address impacts on waters of the United States through the Clean Water Act (CWA), a statute administered largely by the U.S. Army Corps of Engineers (USACE) in coordination with the U.S. Environmental Protection Agency (EPA). The goal for most of the resource planning efforts in our region is to address the requirements of the ESA and the CWA. It is also the goal of the HCPs in the region to address state endangered species requirements via either California Department of Fish and Wildlife's (CDFW) Natural Community Conservation Plan (NCCP) or via a programmatic permit with the CDFW. Additionally, all HCPs will be seeking programmatic State 401 Water Quality Certification which is administered by the Regional Water Quality Control Boards. (These various efforts are further defined in the appendix to this document.)

The SACOG region is home to one implemented HCP—the Natomas Habitat Conservation Plan—and has four additional Plans underway—the Placer County Conservation Plan (PCCP), the South Sacramento Habitat Conservation Plan (SSHCP), the Yolo Natural Heritage Program, and The Yuba-Sutter HCP.

The unique challenge in our region is the scale of the resources (larger than nearly anywhere else in the U.S.) and the fact that no national examples exist of similarly scaled plans that cover both ESA and CWA impacts. The complexities explain, in part, why the current projects have taken so long to get to this point and all have significant milestones still to achieve before they are completed and implementation can begin.

Stacey McKinley, consultant to SACOG, has been specifically engaged with the Placer County Conservation Plan both via SACOG and via engagement directly with Placer County. McKinley also worked on behalf of Sacramento County for a period of roughly two years on the SSHCP.

In the pursuit of hoping to better inform the MTP/SCS process, McKinley, along with SACOG staff, interviewed the following Federal Resource Agency and Plan Partner staff/consultants to better understand the current status of HCP/NCCP efforts in the SACOG Region.

- USEPA, Paul Jones
- USACE, Michael Jewell and Kate Dadey
- South Sacramento HCP : Bill Ziebron and Richard Radmacher

- Placer County Conservation Plan : Loren Clark
- Yolo Natural Heritage Program: Petrea Marchand
- Yuba/Sutter Conservation Plan: Danelle Stylos and Joyce Hunting
- The Natomas Basin Conservancy: Danelle Stylos

*Several attempts have been made to meet with USFWS and CDFWS and will continue to pursue meetings with these two resource agencies.

Meetings with HCP/NCCP Managers:

Managers were afforded time to give a general overview and were then asked a set of questions (below). Attachment A is a summary of that feedback followed by a "notes" section. At the time of this writing, follow-up with Plan Managers/staff/consultants remains underway, and any edits to the attached will be shared and discussed in the Committee setting.

Of particular interest to SACOG staff was the issue of timing of these efforts. It should be noted that the timelines in the attached summary reflect feedback from the Plan Managers themselves.

In general, all Plans must still answer the following key questions:

- What is the cost of implementation and what are the corresponding benefits?
- How much additional project-level review will be required once these Plans are implemented?

Lack of certainty on those key points, amongst others, is noteworthy, and its impact is evidenced by the individual pursuit of CWA 404/401 and USFWS/CFWS permits by project proponents who are also coordinating with the HCP/NCCP efforts. Questions asked to all:

- Explain your preserve design. Is it hard lined?
- Will impacts beyond those in your plan positively or negatively impact your preserve design?
- Are all transportation impacts covered in your plan?
- Will your plan call for advanced or phased mitigation?
- Explain (if applicable) how you are using growth projections to influence your permit term, other factors?
- Do you have any SCS/TPA's within your Plan area?
- Are you considering water availability/climate change in your Plan?
- How current is your data? Is it open source? How complete is your species occurance data?
- How frequently will you need to update your data to meet assurances with agencies?
- Is there anything we might do which might harm of help your Plan?
- Estimated year of completion?
- What is your relationship with neighboring/other HCP's?
- What Ag centric issues are you dealing with?
- Any exploration of mitigation to support ag practices?
- Will your Plan have a 404 component?
- What regulatory challenges are you facing?
- What fiscal challenges are you facing?
- Do you have any critical habitat within your Plan area?

Approved by:

Mike McKeever
Chief Executive Officer

MM:SM:gg

PLAN:	**South Sacramento HCP**	**Placer County HCP/NCCP**	**Yolo Natural Heritage HCP/NCCP**	**Yuba Sutter HCP/ NCCP**	**Natomas HCP/NCCP**
Start Date	2000	-2000 Implementation of Placer Legacy -2008 Initiate Preparation of HCP/NCCP	2002	2001	
Essential Milestones <u>Met</u>:					
o **Admin Draft (may be more than one)**	x	x	x		x
o **Draft HCP/NCCP/EIR/EIS**					
o **Final HCP/NCCP/EIR/EIS**					
o **Aquatic Resources Program Agreed to**					
o **Implementation of HCP/NCCP**					
o **Permits issued**					
Plan Managers Estimated Calendar of Milestones	-Late summer 2014 for release of the Draft HCP and accompanying Aquatic Resources Program. - Currently working on locking down 2-3 important components of the Plan to be able to complete EIS/EIR -General timeline of Final HCP/EIR/EISin 2015 with Implementation and permit issuance to follow	-Plan document late spring 2014 -EIR/EIS 2016/2017.hence	-Expectation of 2nd Admin Draft Feb, 2015 -Expectation of DEIS/DEIR and Public Review Draft June 27, 2016 -Expectation of Final Draft Nov. 15, 2016 -Expectation of permit issuance April, 2017	-First Admin Draft by end of 2015/Early 2006	Adopted in 1997 and revised in 2003

PLAN:	South Sacramento HCP	Placer County HCP/NCCP	Yolo Natural Heritage HCP/NCCP	Yuba Sutter HCP/ NCCP	Natomas HCP/NCCP
Seeking ESA/2081	x	x	x	x	x
Seeking 404CWA/401	x	x	x	Minimal effects coverage sought	No
NCCP	no	x	x	x	No
Requested Term of Permits	50 year	50 years	50 years	50 years	35 years
Planning Area	374,000 acres initially but recently decreased by the City of Elk Grove's requested action to be removed from the Plan. The Plan covers the City of Rancho Cordova and the City of Galt, the Southeast Connector project and a portion of unincorporated Sacramento County.	201,000 acres	All of Yolo County (653,817 acres) with coverage for all of the Cities within the County and the unincorporated County. Of the 650,000 acres, there is an expectation of roughly 18,000 acres of impacts, but it should be noted that that number may slightly vary pending new effects analysis to be released as part of the February 2015, Admin Draft.	All of Sutter County (with the exception of the Sutter Buttes and the area covered by the Natomas HCP) as well as a portion of Yuba County	53,341 acres interior of the Natomas Basin located in Northern Sacramento County and Southern Sutter County
Unique features	-Interactions with Bay Delta Conservation Plan -5 key development projects of which most are in pursuit of individual permits while in parallel in support and pursuit of the HCP -Need for HCP or something similar to address the Biological Opinion for the Freeport Water Facility	-Use of growth projections -Importance of potential jurisdiction of rice -Good cross-jurisdictional relationship with Sutter County	-Very limited development in relation to overall Plan area -Overlap with Bay Delta Conservation Plan	-The Plan area is 100% dependent upon groundwater.	

PLAN:	South Sacramento HCP	Placer County HCP/NCCP	Yolo Natural Heritage HCP/NCCP	Yuba Sutter HCP/ NCCP	Natomas HCP/NCCP
Current Key Issues	- Five major projects located within the proposed HCP boundary. Due to outstanding issues with the HCP each project has decided to also simultaneously pursue Individual Permits and Section 7 consultation with the Federal agencies. -Treatment of onsite avoidance of impacts to waters.	-Pricing issues – costs to end users -Coordination with mitigation banks -Integration and assurances of 404 Clean Water Act coverage for all projects -Negotiations with Resource Agencies re: "right land in the right places"	-Row crop and orchard conversion -Cost share demand and funding source assurance on the part of USFWS -Lack of appreciation on Wildlife Agency part re: the habitat value of full suite of Ag cover types -Ability to successfully negotiate full or partial credit for lands which have been conserved with permanent easements of which the County has approximately 70,000 acres within the area proposed for preservation of HCP/NCCP impacts. -Approval by State Fish and Wildlife for an innovative easement template (approved 5.27.14 by USFWS) which recognizes cultivated lands.	-Levy improvements and the associated proposed buffers which may significantly erode agricultural lands -Ag conversion and neighboring flood management activities of potential concern.	Escalation in costs 1997 - $2240.00 (per acre)3 2014- $32,259 (per acre)3 $21,009 (per acre)3 with land dedication

Glossary of acronyms used:

USACE: U.S. Army Corps of Engineers
USEPA: U.E. Environmental Protection Agency
USFWS: U.S. Fish and Wildlife Service
CDFW: California Department of Fish and Wildlife
HCP: Habitat Conservation Plan
NCCP: Natural Communities Conservation Plan

Notes:

-The HCP and NCCP efforts which are in pursuit of 404 Clean Water Act and 401 Water Quality Certification are doing so in a regulatory and policy environment which has not been tested at a scale relevant to the needs of the SSHCP and the PCCP. The only example of 404/401 integration nationally has been done subsequent to the adoption of the East Contra Costa Habitat Conservation Plan. It should be noted, however, that the acreage threshold for the 404 permit for the ECCHCP is limited to the loss of waters of the U.S., including wetlands, resulting from a single and complete project, would be proposed to not exceed a total of 1.5 acres. In addition, a project could not
permanently affect more than 300 linear feet of perennial, intermittent or third or higher order ephemeral streams, unless this linear limit is waived in writing by the Corps. Proposed projects that do not meet the eligibility requirements of the RGP would require
authorization by a standard permit, letter of permission or Nationwide permit. the translation of that being a permit which will have utility for actions such as culverts, boat docks, etc. The 401 Water Quality Certification for the ECCHCP has not yet been secured. As Plans in our region are maturing toward further investment in environmental documents, etc., time is of the essence for the Corps in particular to make assurances to the Plan partners that the 404 Clean Water Act integration will be designed to cover all projects which can demonstrate consistency with the HCP and will not be limited to an acreage threshold. If a threshold similar to that offered to the ECCHCP is to be the outcome for the HCP's in our region, arguably most or all of the projects considered in our Plans would be forced to pursue Individual Permits.

-In regard to timing of a "typical" HCP process, and specifically aligned with where our Regional Plans generally are at in their own processes, the best and most recent example may be the East Contra Costa HCP which issued its draft HCP/NCCP in 2004 with the HCP implemented in 2008. Subsequent to the implementation of the draft HCP, the Plan Partners pursued 404 and 401 certifications. In February of 2011, the Corps issued a public notice for their proposed engagement (as outlined above), and presently the Plan remains in pursuit of a 401/State Water Quality Certification.

-While some plans called out financing as a timely issue all will face the need to produce cost/benefit analysis in rather short order (relative to the staff's projected timelines) as conservation predominantly occurs via development and if the benefits to development (certainty, streamlining, etc.) are not made clear and binding at this point in the market, the most-likely funders of the Plans may not see utility in permitting through them.

U.S. Fish & Wildlife Service

Habitat Conservation Plans

Section 10 of the Endangered Species Act

What is a Habitat Conservation Plan and Incidental Take Permit?

An incidental take permit is required when non-Federal activities will result in "take" of threatened or endangered wildlife. A habitat conservation plan (HCP) must accompany an application for an incidental take permit. The purpose of the habitat conservation planning process associated with the permit is to ensure there is adequate minimizing and mitigating of the effects of the authorized incidental take. The purpose of the incidental take permit is to authorize the incidental take of a listed species, not to authorize the activities that result in take.

What is take?

"Take" is defined in the Endangered Species Act (ESA) as harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect any threatened or endangered species. Harm may include significant habitat modification where it actually kills or injures a listed species through impairment of essential behavior (e.g., nesting or reproduction).

How many HCPs have been developed and what size areas do they cover?

Both the number of HCPs and the size and complexity of the areas they cover have increased. More than 430 HCPs have been approved, with many more in the planning stage. Most of the earlier HCPs approved were for planning areas of less than 1,000 acres; now 10 exceed 500,000 acres, with several larger than 1,000,000 acres. In some cases, there are more than one incidental take permit associated with a HCP. For example, the Central Coastal Orange County HCP was developed as an overall plan under which each individual participating entity received a separate incidental take permit. This suggests that HCPs are evolving from a process adopted primarily to address single projects to broad-based, landscape-level planning, utilized to achieve long-term biological and regulatory goals.

The Wisconsin Statewide HCP was developed for the conservation of the endangered Karner blue butterfly. Photo by Joel Trick.

Who needs an incidental take permit?

Anyone who believes that their otherwise-lawful activities will result in the "incidental take" of a listed wildlife species needs a permit. The U.S. Fish and Wildlife Service (FWS) can help you determine whether your proposed project or action is likely to result in "take" and whether a HCP is an option to consider. FWS personnel can also provide technical assistance to help you design your project so as to avoid take. For example, the project could be designed with seasonal restrictions on construction to minimize disturbance during nesting.

What is the benefit of an incidental take permit and Habitat Conservation Plan to a private landowner?

The permit allows a landowner to legally proceed with an activity that would otherwise result in the illegal take of a listed species. The FWS also developed a regulation to address the problem of maintaining regulatory assurances and providing certainty to landowners through the HCP process, called the "No Surprises" regulation.

What are No Surprises assurances?

No Surprises assurances are provided by the government through the section 10(a)(1)(B) process to non-Federal landowners. Essentially, private landowners are assured that if "unforeseen circumstances" arise, the FWS will not require the commitment of additional land, water, or financial compensation or additional restrictions on the use of land, water, or other natural resources beyond the level otherwise agreed to in the HCP without the consent of the permittee. The government will honor these assurances as long as a permittee is implementing the terms and conditions of the HCP, permit, and other associated documents in good faith. In effect, this regulation states that the government will honor its commitment as long as the HCP permittees honor theirs.

Are incidental take permits needed for listed plants?
There are no Federal prohibitions under the ESA for the take of listed plants on non-Federal lands, unless taking of those plants is in violation of State law. However, before the FWS issues a permit, the effects of the permit on listed plants must be analyzed because section 7 of the ESA requires that issuance of a HCP permit must not jeopardize any listed species, including plants.

What is the process for getting an incidental take permit?
The applicant is in charge of deciding whether to pursue an incidental take permit. While FWS personnel provide detailed guidance and technical assistance throughout the process, the development of a HCP is driven by the applicant. The applicant is responsible for submitting a completed permit application. The necessary components of a completed permit application are a standard application form, a HCP, an Implementation Agreement (if required), and, if appropriate, a draft National Environmental Policy Act (NEPA) analysis.

While processing the permit application, the FWS will prepare the incidental take permit, write a biological opinion under section 7 of the ESA, and finalize the NEPA analysis documents. Consequently, incidental take permits have a number of associated documents besides the HCP.

How long will it take to process our application?
The length of time to complete the permitting process depends on the complexity of issues involved (e.g., the number of species) and the completeness of the documents submitted by the applicant. The FWS will work to complete all steps, such as the public comment process, as expeditiously as possible. The most variable factor in permit processing requirements is the level of analysis required for the proposed HCP under NEPA, in other words, whether an Environmental Impact Statement (EIS), Environmental Assessment (EA), or a categorical exclusion is required. Other factors such as public controversy can also affect permit processing times.

"Low Effect" HCPs are those involving minor effects on federally listed, proposed, or candidate species and their habitats covered under the HCP and minor effects on other environmental values or resources. These HCPs do not require a NEPA document, and the target permit processing time is 3 months.

HCPs that do not fall into the "Low Effect" category require either an EA or an EIS, depending on their complexity. For those requiring an EA as part of the permit application, the target permit processing time is 4 to 6 months. For those requiring an EIS, the target permit processing time may be up to 12 months.

How do we know if we have listed species on our project site?
Check with the appropriate State fish and wildlife agency, the nearest FWS field office, or the National Oceanic and Atmospheric Administration (NOAA) – Fisheries (for anadromous fish). You can arrange for a biologist from one of these agencies to visit your property to determine whether a listed species may be on your project site.

What needs to be in a HCP?
The contents of a HCP are defined in section 10 of the ESA and its implementing regulations. They include:
- an assessment of impacts likely to result from the proposed taking of one or more federally listed species.
- measures the permit applicant will undertake to monitor, minimize, and mitigate for such impacts; the funding that will be made available to implement such measures; and the procedures to deal with unforeseen or extraordinary circumstances.
- alternative actions to the taking that the applicant analyzed, and the reasons why the applicant did not adopt such alternatives.
- additional measures that the FWS may require as necessary or appropriate.

What kind of actions are considered mitigation?
Mitigation measures are actions that reduce or address potential adverse effects of a proposed activity on species covered by a HCP. They should address specific needs of the species involved and be manageable and enforceable. Mitigation measures may take many forms, such as preservation (via acquisition or conservation easement) of existing habitat; enhancement or restoration of degraded or a former habitat; creation of new habitats; establishment of buffer areas around existing habitats; modifications of land use practices, and restrictions on access.

What is the legal commitment of a HCP?
The elements of a HCP are made binding through the incidental take permit. While incidental take permits contain an expiration date, the mitigation identified in the HCP can be in perpetuity in certain cases. Violation of the terms of an incidental take permit would result in illegal take under section 9 of the ESA. If the violation is deemed technical or inadvertent in nature, the FWS may send the permittee a notice of noncompliance by certified mail or may recommend alternative actions to the permittee so that they may regain compliance with the terms of the permit.

Who approves a HCP?
The FWS Regional Director decides whether to issue a HCP permit based on findings that:
- the taking will be incidental to an otherwise lawful activity;

- the impacts will be minimized, and mitigated to the maximum extent practicable;
- adequate funding will be provided;
- the taking will not appreciably reduce the likelihood of the survival and recovery of the species; and
- any other necessary measures are met.

If the HCP addresses all of these requirements and those of other applicable laws, the permit is issued.

What other laws besides the Endangered Species Act are involved?

In issuing an incidental take permit, the FWS must comply with the NEPA and all other statutory and regulatory requirements, including any State or local environmental/planning laws. HCPs may be categorically excluded from NEPA or may require either an EA or, rarely, an EIS.

Who is responsible for NEPA compliance during the HCP process?
The FWS is responsible for ensuring NEPA compliance during the HCP process. However, if the Service does not have sufficient staff resources to prepare the appropriate NEPA analysis in a timely fashion, an applicant may, within certain limitations, prepare draft Environmental Assessment analyses. This can benefit the applicant and the government by expediting the application process and issuance of the permit. When this is done, the FWS will provide the preparer with appropriate guidance concerning document preparation; and review the document within 30 days and take responsibility ultimately for its scope, adequacy, and content.

Does the public get to comment on our HCP? How do public comments affect our HCP?
The ESA requires a 30-day period for public comment on the application for an incidental take permit. However, we have recognized the concerns of the public regarding inadequate time for the public comment period, and have extended the minimum comment period to 60 days. Additionally, NEPA requires public comment on certain NEPA documents, and the FWS runs these two comment periods concurrently. Therefore, public comments must be considered in the permit decision.

What kind of monitoring is required for a HCP and who performs it?
The ESA or any party we designate as responsible (e.g., State wildlife agency, local government) in the HCP will monitor the project for compliance with the terms of the incidental take permit or HCP. If another party is responsible for monitoring compliance with the permit, the FWS will require periodic reporting from such party in order to maintain overall oversight responsibility for the implementation of the HCP's terms and conditions. For regional and other large-scale or long-term HCPs, monitoring programs must provide long-term assurances that the HCP will be implemented correctly, that actions will be monitored, and that such actions will work as expected. This should include periodic accountings of take, surveys to determine species status in project areas or mitigation habitats, and progress reports on fulfillment of mitigation requirements (e.g., habitat acres acquired). Monitoring plans for HCPs should establish target milestones, to the extent practicable, or reporting requirements throughout the life of the HCP and should address actions to be taken in case of unforeseen or extraordinary circumstances.

The FWS must monitor the applicant's implementation of the HCP and the permit terms and conditions. In addition to compliance monitoring, the biological conditions associated with the HCP should be monitored to determine if the species needs are being met. This includes determining if the biological goals that are expected as part of the HCP mitigation and minimization strategy are being met. The effectiveness monitoring will help the FWS determine if the conservation strategy is functioning as intended and the anticipated benefits to the species are being realized.

Are efforts made to accommodate the needs of HCP participants who are not professionally involved in the issues?
Because development of a HCP is done by the applicant, it is considered a private action and, therefore, not subject to public participation or review until the FWS receives an official application. The FWS is committed to working with HCP applicants and providing technical assistance as required throughout the HCP development process to accommodate their needs. The FWS believes that HCPs under development are restricted by privacy regulations unless waived by the applicant. However, the FWS does encourage the applicant to involve all appropriate parties. This is especially true for complex and controversial projects, and applicants for most large-scale, regional HCP efforts choose to provide extensive opportunities for public involvement during the planning process. The issuance of a permit is, however, a Federal action that is subject to public review and comment. There is time for public review during the period when the FWS reviews the information and decides to grant or deny a permit based on the completed HCP. A 30-day public comment period is required for all completed HCP applications. During this period, any member of the public may review and comment on the HCP and the accompanying NEPA document (if applicable). Additionally, the FWS solicits public involvement and review, as well as requests for additional information during the scoping process for an EIS.

Are the views of independent scientists used or sought, before and during development of a HCP?
The views of independent scientists are important in the development of mitigation and minimization measures in nearly all HCPs. In many cases, these individuals are contacted by the applicant and are directly involved in discussions on the adequacy of possible mitigation and minimization measures. In other cases, the views of independent scientists are incorporated indirectly through their participation in other documents, such as listing documents, recovery plans, and conservation agreements, that are referenced by applicants as they develop their HCP.

How does the FWS ensure that species are adequately covered in HCPs?
The FWS has strengthened the HCP process by incorporating adaptive management into the plans when there are species covered for which additional scientific information may be useful during the implementation of the HCP. These provisions allow FWS and NOAA–Fisheries to work with the landowner to reach mutual agreement upon changes in the mitigation strategies within the HCP area, if new information about the species indicates this is needed. Any changes in strategy that may occur are discussed up front with the landowner during the development of the HCP. In this manner, the permittees are fully aware of any future uncertainty in the management strategies, and have concurred with the adaptive approaches outlined in the HCP.

What will the FWS do in the event of unforeseen circumstances that may jeopardize the species?
The FWS will use its authority to manage any unforeseen circumstances that may arise to ensure that species are not jeopardized as a result of approved HCPs. The FWS will work with all other Federal and State agencies to help ensure the continued survival and recovery of the species in the wild.

How can I obtain information on numbers and types of HCPs?
Our national HCP database displaying basic statistics on HCPs is available online from our Habitat Conservation Planning page at *http://www.fws.gov/endangered/hcp/*. The contact information regarding an individual HCP that is available for public comment is listed in the notice of availability for that HCP, published in the *Federal Register* by the appropriate Regional office. Regional office contact information can be found at *http://www.fws.gov*.

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Attachment C

Appendix :

What is an HCP?

Via the introduction to the Endangered Species Act of 1973 (Act), Congress said that the purposes of the Act are "…to provide a means whereby the ecosystems upon which endangered species and threatened species depend may be conserved [and] to provide a program for the conservation of such … species…" Habitat Conservation Plans (HCPs) under section 10(a)(1)(B) of the Act provide for partnerships with non-Federal parties to conserve the ecosystems upon which listed species depend, ultimately contributing to their recovery.

HCPs are planning documents required as part of an application for an incidental take permit. They describe the anticipated effects of the proposed taking; how those impacts will be minimized, or mitigated; and how the HCP is to be funded. HCPs can apply to both listed and nonlisted species, including those that are candidates or have been proposed for listing. Conserving species before they are in danger of extinction or are likely to become so can also provide early benefits and prevent the need for listing. (Additional information on HCP's attached).

What is an NCCP?

Three of the four Plans underway are NCCP's (SSHCP is the exception). CDFW's **Natural Community Conservation Planning (NCCP)** program is an unprecedented effort by the State of California, and numerous private and public partners, that takes a broad-based ecosystem approach to planning for the protection and perpetuation of biological diversity. An NCCP identifies and provides for the regional or areawide protection of plants, animals, and their habitats, while allowing compatible and appropriate economic activity.The primary objective of the NCCP program is to conserve natural communities at the ecosystem level while accommodating compatible land use. The program seeks to anticipate and prevent the controversies and gridlock caused by species' listings by focusing on the long-term stability of wildlife and plant communities and including key interests in the process.

Working with landowners, environmental organizations, and other interested parties, a local agency oversees the numerous activities that compose the development of a conservation plan. CDFW and the U.S. Fish and Wildlife Service provide the necessary support, direction, and guidance to NCCP participants

What is the 404 Clean Water Act?

Section 404 of the Clean Water Act (CWA) establishes a program to regulate the discharge of dredged or fill material into waters of the United States, including wetlands. Activities in waters of the United States regulated under this program include fill for development, water resource projects (such as dams and levees), infrastructure development (such as highways and airports) and mining projects. Section 404

requires a permit before dredged or fill material may be discharged into waters of the United States, unless the activity is exempt from Section 404 regulation (e.g. certain farming and forestry activities).

What is the State 401 Water Quality Certification?

This program regulates discharges of fill and dredged material under Clean Water Act Section 401 and the Porter-Cologne Water Quality Control Act.

This program protects all waters in its regulatory scope, but has special responsibility for wetlands, riparian areas, and headwaters because these waterbodies have high resource value, are vulnerable to filling, and are not systematically protected by other programs. We are involved with protection of special-status species and regulation of hydromodification impacts. The Program encourages basin-level analysis and protection, because some functions of wetlands, riparian areas, and headwater streams - including pollutant removal, flood water retention, and habitat connectivity - are expressed at the basin or landscape level.

Most projects are regulated by the Regional Water Quality Control Boards (Regional Boards). The State Water Resources Control Board (State Water Board) directly regulates multi-regional projects and supports and coordinates the Program statewide.