

address multiple species, and are very important to a large area and to many participating permittees.

Large regional HCPs expand upon the basic requirements set forth in section 10(a)(1)(B) of the Act because they reflect a voluntary, cooperative approach to large-scale habitat and species conservation planning. Many of the large regional HCPs in southern California have been, or are being, developed to provide for the conservation of numerous federally listed species and unlisted sensitive species and the habitats that provide for their biological needs. These HCPs are designed to proactively implement conservation actions to address future projects that are anticipated to occur within the planning area of the HCP; however, given the broad scope of these regional HCPs, not all projects envisioned to potentially occur may actually take place.

In the case of approved regional HCPs (e.g., those sponsored by cities, counties or other local jurisdictions) that provide for incidental take coverage for the coastal California gnatcatcher, a primary goal of these regional plans is to provide for the protection and management of habitat essential for the conservation of the species while directing development to other areas. The regional HCP development process provides an opportunity for more intensive data collection and analysis regarding the use of particular habitat areas by coastal California gnatcatchers. The process also enables us to conduct detailed evaluations of the importance of such lands to the long term survival of the species in the context of constructing a system of interlinked habitat blocks that provide for the biological needs of the species.

Completed HCPs and their accompanying implementation agreements contain management measures and protections for identified preserve areas that protect, restore, and enhance the value of these lands as habitat for the coastal California gnatcatcher. These measures, which include explicit standards to minimize any impacts to the covered species and its habitat, are designed to ensure that the value of the conservation lands as suitable habitat for the coastal California gnatcatcher habitat is maintained, expanded and improved.

In approving these HCPs the Service has provided assurances to permit holders that once the protection and management required under the plans are in place and for as long as the permit holders are fulfilling their obligations under the plans, no additional mitigation in the form of land or

financial compensation will be required of the permit holders and in some cases, specified third parties. Similar assurances will be extended to future permit holders in accordance with the Service's HCP Assurance ("No Surprises") rule codified at 50 CFR 17.22(b)(5) and (6) and 17.32(b)(5) and (6).

Because of the similarities between the purposes of regional HCPs and designation of critical habitat, and in light of the intensive investigation and analysis undertaken in conjunction with regional HCP planning processes, regional HCPs currently under development will identify, protect and provide appropriate adaptive management for those specific lands within the boundaries of the plans that are essential for the long-term conservation of the species. The analyses of these HCPs and proposed permits under section 7 show that activities covered under such permits will not result in the destruction or adverse modification of critical habitat proposed within the boundaries of the plans when the covered activities are carried out in accordance with the provisions of the HCP.

As discussed earlier, we have considered, but have not proposed as critical habitat lands within approved HCPs that include the coastal California gnatcatcher as a covered species. It is also our intention to exclude currently proposed HCPs that cover the gnatcatcher if, prior to publication of a final designation of critical habitat, the plans are completed, approved, and legally operative. We will evaluate the exclusion of these lands based on the best scientific data available and after taking into consideration economic and any other relevant impact of designating critical habitat. Following is our preliminary analysis of the benefits of including lands within approved HCPs versus excluding such lands from critical habitat designation.

(1) Benefits of Inclusion

Under Section 7 critical habitat designation will provide little additional benefit to the coastal California gnatcatcher habitat within the boundaries of approved HCPs. The primary benefit of any critical habitat is with regard to activities with a Federal nexus that require consultation pursuant to Section 7 of the Act to ensure that the activity will not destroy or modify designated critical habitat. Currently approved and permitted HCPs are designed to ensure the conservation of covered species within the plan area. HCPs, particularly large regional HCPs, address land use within the plan

boundaries, and habitat issues within these plan boundaries will have been thoroughly addressed in the HCP itself and through the Section 7 consultation on the HCP.

Furthermore, HCPs typically provide greater conservation benefits to covered species than independent project-by-project section 7 consultations, because HCPs assure the long-term protection and management of a covered species and its habitat, and funding for such management and protection through the standards found in the 5-Point Policy for HCPs (65 FR 35242) and the HCP No Surprises regulation (63 FR 8859). These types of assurances are typically not provided by section 7 consultations because such consultations do not always commit the project proponent to long-term special management or protections. Thus, a consultation is not likely to accord the lands it covers the extensive benefits an HCP provides.

Development and implementation of HCPs provide other important conservation benefits, including the development of area wide biological information to guide conservation efforts and assist in species' recovery and the creation of innovative solutions to conserve species while allowing for continued economic development. Particularly in the case of large regional HCPs, one species benefit from landscape planning outweighs the fragmented approach that is the result of individual permitting on only those projects with a Federal nexus even when critical habitat is designated.

The educational benefits of critical habitat, including informing the public of areas that are important to the conservation of listed species, are actually less than what occurs in the HCP process. Since the HCP process is voluntary, public participation through multiple public notices and comment periods, as well as direct involvement by local governments, the environmental community, and the regulated community is ensured prior to their approval. For these reasons, we believe that designation of critical habitat typically provides no additional benefit in areas covered by approved HCPs.

(2) Benefits of Exclusion

We have determined that the benefits of excluding lands within approved HCPs from critical habitat designation are typically more substantial than including them. The benefits of excluding lands within HCPs from critical habitat designation include relieving landowners, communities, and Counties of any additional regulatory burden that may result solely from such