

designation. Many HCPs, particularly large, regional HCPs, take many years to develop and, upon completion, become regional conservation plans that are consistent with the recovery objectives for listed species that are covered within the plan area. Additionally, many of these HCPs provide conservation benefits to unlisted, sensitive species. Imposing an additional regulatory review after an HCP is completed solely as a result of the designation of critical habitat may undermine conservation efforts and partnerships in many areas, and in fact, could result in the loss of species benefits as participants in the voluntary HCPs abandon them in the face of additional regulations requiring more of them than other parties who have not voluntarily participated in species conservation. Designation of critical habitat within the boundaries of approved HCPs could also be viewed as a disincentive to those entities currently developing HCPs or contemplating developing them in the future.

A related benefit of excluding lands within HCPs from critical habitat designation is the continued ability to seek new partnerships with future HCP participants, including States, Counties, local jurisdictions, conservation organizations, and private landowners, which together can implement conservation actions that we would be unable to accomplish otherwise. If lands within HCP plan areas are designated as critical habitat, it would likely have a chilling effect on our ability to establish new partnerships to develop HCPs, particularly large, regional HCPs that involve numerous participants and address landscape-level conservation of species and habitats. By excluding these lands, we preserve our current partnerships and encourage additional conservation actions in the future.

In addition to the conservation benefits HCPs provide to covered species within the plan areas, many of these HCPs, particularly large regional HCPs, also address landscape-level conservation of native habitats. In California, the NCCP Act of 1991 provides a framework for conserving listed and other sensitive species at a regional or ecosystem scale. The pilot program of the NCCP focuses on conservation of native coastal sage scrub communities throughout a 6,000 square mile area in southern California that includes parts of Los Angeles, Orange, San Diego, Riverside, and San Bernardino Counties. The NCCP program complements the objectives of regional HCP planning efforts. In southern California, several regional conservation planning efforts that

incorporate the dual objectives of NCCP/HCP have already been approved.

In southwestern San Diego County, the MSCP effort encompasses more than 236,000 ha (582,000 ac) and reflects the potential participation of several local jurisdictions. The MSCP provides for the establishment over the permit term of approximately 69,573 ha (171,000 ac) of preserve areas to provide conservation benefits for 85 Federally listed and sensitive species. An estimated 28,844 ha (71,274 ac) of these preserve lands contain coastal sage scrub, the primary nesting and foraging habitat for the coastal California gnatcatcher. This represents 62 percent of the remaining habitat for the coastal California gnatcatcher in southern San Diego County. These lands are to be permanently maintained and managed for the benefit of the gnatcatcher and other covered species.

The Central-Coastal NCCP/HCP in Orange County was developed in cooperation with numerous local and State jurisdictions and agencies and participating landowners, including the cities of Anaheim, Irvine, Orange, Lake Forest, Laguna Woods, Mission Viejo, Southern California Edison, Transportation Corridor Agencies, The Irvine Company, California Department of Parks and Recreation, Southern California Edison, Metropolitan Water District of Southern California, Irvine Ranch Water District, Transportation Corridor Agency, The Regents of the University of California, and the County of Orange. Approved in 1996, the Central-Coastal NCCP/HCP provides for the establishment of approximately 15,677 ha (38,738 ac) of reserve lands for 39 Federal or State listed, unlisted, and sensitive species. These reserve areas include about 7,621 ha (18,831 ac) of coastal sage scrub habitat. The design of the reserve system for the Central-Coastal NCCP/HCP encompasses approximately 72 percent of the remaining coastal sage scrub habitat within the planning area. These lands are also required to be maintained and managed for the benefit of the gnatcatcher and other covered species.

Additional HCPs within the range of the gnatcatcher, such as the San Diego Gas and Electric Subregional Natural Community Conservation Plan/Habitat Conservation Plan, have also been completed and provide incidental take authorization for the gnatcatcher.

There are currently several regional NCCP/HCP efforts underway in southern California that have not yet been completed but which, upon approval, will provide conservation benefits to the coastal California gnatcatcher.

The MHCP in northwestern San Diego County encompasses approximately 453 square km (175 square mi) within the study area, including about 160 to 200 ha (400–500 ac) of coastal sage scrub habitat. Currently, seven cities are participating in the development of the MHCP.

The proposed Southern Subregion NCCP/HCP in Orange County encompasses approximately 515 square km (200 square mi) or 51,800 ha (128,000 ac) in its planning area, including about 10,412 ha (25,729 ac) of coastal sage scrub habitat for the coastal California gnatcatcher. Jurisdictions and private landowners within the study area include the cities of Rancho Santa Margarita, Mission Viejo, San Juan Capistrano, San Clemente, and Rancho Mission Viejo, and the County of Orange.

Additionally, the proposed Western Riverside MSHCP is being developed in cooperation with the County of Riverside, 12 cities, the Riverside County Flood Control and Water Conservation Agency, Riverside County Transportation Commission, Riverside County Parks and Open Space District, Riverside County Waste Department, California Department of Parks and Recreation, and California Department of Transportation. The proposed MSHCP encompasses approximately 530,000 ha (1.3 million ac) of land. Proposed reserves could potentially conserve up to 60 percent of the remaining habitat for coastal California gnatcatchers within the plan area.

In general, we find that the benefits of critical habitat designation on lands within approved HCPs that cover those species are small while the benefits of excluding such lands from designation of critical habitat are substantial. After weighing the small benefits of including these lands against the much greater benefits derived from exclusion, including encouraging the pursuit of additional conservation partnerships, we have considered but have not proposed as critical habitat, lands within approved and legally operative HCPs that include the coastal California gnatcatcher as a covered species.

In the event that future HCPs covering the coastal California gnatcatcher are developed within the boundaries of designated critical habitat, we will work with applicants to ensure that the HCPs provide for protection and management of habitat areas essential for the conservation of the species. We will provide technical assistance and work closely with applicants throughout the development of future HCPs to identify lands essential for the long-term conservation of the gnatcatcher and