

MEMORANDUM OF UNDERSTANDING  
BY AND BETWEEN  
THE CALIFORNIA RESOURCES AGENCY AND THE CALIFORNIA DEPARTMENT OF  
FISH AND GAME ON BEHALF OF THE STATE OF CALIFORNIA  
AND  
THE DEPARTMENT OF THE INTERIOR AND THE UNITED STATES FISH AND WILDLIFE  
SERVICE ON BEHALF OF THE UNITED STATES GOVERNMENT  
REGARDING  
STAFFING COORDINATION FOR THE IMPLEMENTATION PHASE OF THE  
COASTAL SAGE SCRUB NATURAL COMMUNITY  
CONSERVATION PLANNING PROGRAM IN SOUTHERN CALIFORNIA

This Memorandum of Understanding (MOU) provides for a special coordination and cooperation by and between the California Resources Agency (Resources) and the California Department of Fish and Game (CDFG), a department of Resources, and the United States Department of the Interior (Interior) and the United States Fish and Wildlife Service (USFWS), an agency within Interior, regarding the continuing planning for and implementation of subarea and subregional plans prepared and approved pursuant to the Natural Community Conservation Planning (NCCP) Program for the southern California coastal sage scrub ecosystem, as provided for in the special 4(d) Rule pursuant to the federal Endangered Species Act (FESA) for the California gnatcatcher (adopted by the USFWS on December 10, 1993). The NCCP plans also serve as Habitat Conservation Plans (HCPs) pursuant to the FESA. This MOU is applicable only to those areas formally involved in the NCCP/HCP planning and implementation process pursuant to the special 4(d) Rule or otherwise subject to an MOU governing the NCCP/HCP program in southern California.

**WHEREAS:**

1. Ecologically sound conservation actions must be implemented in order to give long-term protection to the coastal sage scrub ecosystem including its interdigitated habitats in Southern California.
2. Conservation planning in California requires protecting larger landscape units, taking into account the distribution and life history requirements of multiple species dependent upon and associated with particular habitat types and large-scale ecosystems.
3. Resources, CDFG, Interior and the USFWS, in conjunction with local governments, landowners and public interest groups, have initiated an extensive conservation planning program in accordance with the special 4(d) Rule for the California gnatcatcher, adopted on December 10, 1993, and in furtherance of the legislatively-mandated purposes of the California Natural Community Conservation Planning Act (NCCP Act) and the FESA.
4. The NCCP program has been designed to be an innovative, natural communities-level approach that promotes the conservation of broad-based natural communities and species diversity while reducing conflicts between protection of the state's wildlife heritage and reasonable use of natural resources for economic development. The Southern California Coastal Sage Scrub NCCP Program is directed toward the conservation of the Southern California coastal sage scrub ecosystem community and other natural communities associated with that ecosystem.

5. Large-scale NCCP/HCPs at the subarea and subregional level have been approved for portions of Orange and San Diego Counties, with other large-scale conservation planning efforts in these and other Southern California counties projected to be completed in the near future.

6. Each of the plans approved to date, and those currently under preparation, involve innovative approaches to the assembly of reserve systems and to ongoing species and habitat protection pursuant to adaptive management programs. The Implementation Agreements for approved subarea and subregional plans embody both the innovation of these plans and the inherent complexity of carrying out long-term programs involving many landowners and multiple local government jurisdictions.

7. The initial years following the execution of NCCP/HCP Implementation Agreements are critical to the success of the approved plans and to the future prospects for ongoing planning efforts. It is essential that the same level of attention and priority, including prompt and decisive resolution of policy issues, are provided during this start-up period by all parties as were provided during the planning phases of the NCCPs/HCPs.

8. During this initial "start-up" period, it is essential that rapid progress be made in commencing program implementation in order to maintain the confidence of the participants and fulfill the desires and expectations of the general public. While the approved NCCPs/HCPs provide specific policy and implementation direction, it is very likely that the implementation stage will generate new issues and questions that will require creative and prompt resolution.

9. Experience to date has indicated that ongoing subarea and subregional planning efforts will continue to require the collective policy-level involvement of Resources, CDFG, Interior and USFWS in assuring creative and prompt resolution of policy issues and major planning decisions.

10. The long-term goal of the NCCP/HCP Management Team, working in conjunction with the team co-leaders, will be to transfer the vision and specific lessons of experience, as well as concepts underlying successful large-scale conservation strategies, to the members of their agencies both to benefit their agencies in carrying out their missions and ultimately to integrate NCCP/HCP development and implementation with daily agency activities.

11. Since the Southern California NCCP/HCP program is premised on joint and concurrent federal and state decision-making, the organizational structure for the implementation phase of NCCPs/HCPs, as well as ongoing planning, must continue to reflect this premise.

12. Consequently, the continued commitment to special organizational structures and the involvement of selected personnel is required to assure the success of these early implementation programs and ongoing NCCP/HCP planning while a broader understanding is gained, over time, of the agency support requirements for these complex and innovative programs.

**RESOURCES, THE CDFG, INTERIOR, AND THE USFWS SHALL CARRY OUT THE NCCP/HCP GOALS OUTLINED ABOVE AS FOLLOWS:**

1. NCCP/HCP Management Team: Resources, CDFG, Interior and USFWS will establish a senior level interagency policy group called the "NCCP/HCP Management Team"

(Management Team) which will be responsible for program oversight, interagency coordination and prompt policy resolution for NCCP/HCP implementation issues and for state and federal agency activities affecting NCCP/HCP planning areas (e.g. Clean Water Act Section 404 permitting). The Management Team will consist of senior level officials from the CDFG and USFWS at the state, regional, and field offices levels, as well as senior representatives from Resources and Interior. Resources and Interior will be represented by ex-officio members selected by their respective Secretaries or their designees. Interior's representation will be reviewed in six months from the date of this MOU, after the phase-in period has been completed. The Management Team will also assure coordination with ongoing endangered species statutory functions including proposed species listings, the designation of critical habitat, and recovery planning efforts.

2. **Assistance for the Management Team:** The Management Team will, as appropriate, request assistance from all available sources including:

**Legal Advisors:** The state and federal agencies comprising the Management Team will each be responsible for providing their own legal representation.

**Other State and Federal Agencies:** The Management Team may seek the assistance of other state and federal agencies. Agencies that may provide assistance include--at the federal level--the National Marine Fisheries Service, the Bureau of Land Management, the U.S. Forest Service, the U. S. Geological Survey, the U.S. Environmental Protection Agency, and the U.S. Army Corps of Engineers, and--at the state level--the California Department of Forestry and Fire Protection, the Wildlife Conservation Board, the California Department of Parks and Recreation, and the California Coastal Conservancy.

3. **NCCP/HCP Staff Team:** The Management Team will be responsible for overseeing the assembly of a working "NCCP/HCP Staff Team" (Staff Team) consisting of state and federal agency principals who will report directly to their individual agency counterparts on the Management Team. As finally determined by the Management Team, the Staff Team will have co-leaders from the CDFG and USFWS jointly selected by the Management Team. The staff team co-leaders will also be members of the Management Team. The Staff Team will be responsible for day-to-day state and federal participation in: (a) NCCP/HCP development and implementation activities, including agency involvement in monitoring and management programs pursuant to the provisions of the particular NCCP/HCP Implementing Agreement; (b) coordination with other related activities within the CDFG and the USFWS; and (c) coordination with other state and federal agencies whose jurisdiction and actions affect the NCCP/HCP planning areas and implementation programs.

4. **Coordination with NCCP/HCP Planning and Implementing Entities:** The Management and Staff Teams will together assure that coordination with NCCP/HCP Development and Implementing Entities and other signatories to NCCP/HCP Implementation Agreements is a high priority.

- Insofar as the ongoing preparation of new subarea and subregional plans is concerned, the Management Team shall carry on the work of the *ad hoc* federal-state working group that has been coordinating federal and state agency assistance to local government planning teams.

- For approved subarea and subregional NCCPs/HCPs, the Management Team may, upon the request of local governments in any such planning area, form a joint committee consisting of

representatives from the Management Team and the local government(s), to provide assistance in plan implementation.

5. Relationship of the Staff Team to the Organizational Structures of the CDFG and the USFWS:

- The Management Team will define staff priorities and specific work objectives;
- The Staff Team co-leaders will report directly to the Regional Director of the USFWS and the Director of CDFG, or their senior level designees, on matters of overall policy, budget and decision-making involving significant elements of the plan implementation programs;
- The performance of Staff Team co-leaders will be evaluated by the Regional Director of the USFWS and the Director of CDFG;
- Staff Team co-leaders will be focused primarily on the NCCP/HCP program; and
- Staff Team co-leaders will dedicate a significant portion of their time to training staff of their respective agencies at the field office level to respond to the complexities of the NCCP/HCP implementation phase.

6. NCCP/HCP Planning and Implementation Priorities: The priorities for the planning and implementation provisions of this MOU are outlined in Appendix 1 titled "NCCP Planning and Implementation Priorities."

**AUTHORITY:**

1. This MOU is entered into pursuant to the legislative intent and specific direction provided for large-scale, multi-species, habitat-based conservation planning pursuant to the NCCP Act and FESA, Section 6(a), the Fish and Wildlife Coordination Act, and the "Unfunded Mandates Reform Act of 1995", P.L. 104-4, 2 U.S.C.A. §1501 et seq.
2. Nothing in this MOU shall be construed as limiting or otherwise affecting in any way the statutory authority of the parties to this MOU.
3. Nothing in this MOU is intended to create or expand any right of action against any party.

**LIMITATIONS AND AMENDMENTS:**

1. No alteration or variation of the terms of this MOU shall be valid unless made in writing and signed by all parties. In addition, no oral understanding or agreement not incorporated in this MOU shall be binding on the parties to this MOU.
2. This MOU may be amended by any of the signatories upon consent, in writing, of all the signatories.

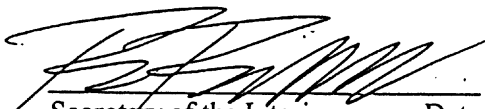
3. The parties should review the progress made under this MOU annually from the date last signed below and determine what, if any, amendments need to be made.

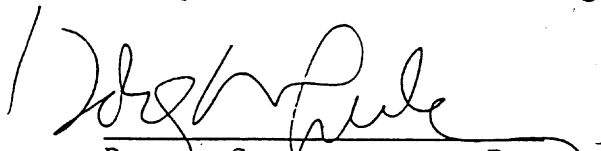
4. Nothing in this MOU may be construed to obligate any party to the expenditure of funds in advance of appropriation.


**TERMINATION:**


1. This agreement shall remain in force and effect for an initial term of five (5) years, unless terminated by any of the signatories. Such termination shall be effective only upon sixty (60) days notice in writing to the other parties.

This MOU has been executed by and on behalf of the parties hereto as of the date last signed below.

  
\_\_\_\_\_  
Secretary of the Interior                      Date

  
\_\_\_\_\_  
Resources Secretary                      Date

  
\_\_\_\_\_  
Regional Director,                      Date  
U.S. Fish and Wildlife Service

  
\_\_\_\_\_  
Director,                      Date  
Department of Fish and Game

## Appendix 1

### NCCP/HCP PLANNING AND IMPLEMENTATION PRIORITIES

Specific planning and implementation phase work tasks to be addressed through the organizational structure defined in this MOU are:

- Provide policy and technical assistance for ongoing and future planning for NCCP/HCP subregional and subarea plans;
- Provide technical assistance for and perform implementation monitoring functions as defined in the applicable NCCP/HCP Implementation Agreements;
- Establish policies and assure the fulfilment of state and federal funding commitments for both planning and implementation;
- Provide assistance to local NCCP/HCP planning and implementation phase management entities regarding
  - CEQA/NEPA compliance
  - Public information and outreach education
  - Policy interpretation
  - Direct involvement in consultation with and assistance to NCCP/HCP management entities in the manner provided in Implementation Agreements
  - Land acquisitions and other aspects of the defined reserve assembly programs
  - Coordinated monitoring and research programs
  - GIS and other data base management;
- Monitor and coordinate CDFG and USFWS activities potentially affecting NCCP/HCP planning and implementation, including
  - Proposed listings under state and federal law
  - Critical habitat designation and recovery plans pursuant to FESA
  - California Section 2090 and FESA Section 7 consultations
  - Acquisition, research, and project review needs
  - Other state and federal permitting such as U.S. Army Corps of Engineers Clean Water Act Permitting (Section 404) and Fish and Game Code 1600 agreements (alteration of stream or lake beds);
- Provide input into state and federal legislative and budget actions affecting NCCP/HCP implementation and ongoing planning efforts; and
- Define agency career tracks reflecting the broader conservation planning approach of NCCP/HCPs and formulate/implement special NCCP/HCP training programs for CDFG and USFWS staff to foster an understanding of and ability to carry out landscape-level natural communities planning and implementation.