

DEPARTMENT OF FISH AND GAME

1416 NINTH STREET

P.O. BOX 944209

SACRAMENTO, CA 94244-2090

NOTICE OF DETERMINATION



TO: Office of Planning and Research
1400 Tenth Street, Room 121
Sacramento, CA 95814

FROM: California Department of Fish and Game
1416 Ninth Street
Sacramento, CA 95814

SUBJECT: Filing of Notice of Determination in compliance with Section 21108 of the Public Resources Code.

Project Title: Orange County Central and Coastal Subregion Natural Community Conservation Plan/Habitat Conservation Plan

State Clearinghouse Number: 93071061 Lead Agency: Orange County Environmental Management Agency

Contact Person: Tim Neely Telephone Number: (714) 834-5550

Project Location/Description: Located in central and coastal Orange County, the project is a 75-year comprehensive habitat conservation planning program designed to preserve sensitive habitats and species while providing for public and private entities to perform planned activities. The project involves the approval of the plan by the California Department of Fish and Game and the issuance of an Incidental Take Permit by the U.S. Fish and Wildlife Service. The plan covers a 208,713 acre area that includes thirteen (13) major habitat types, 12 of which will comprise a managed habitat reserve system. Forty-four (44) species of plants and animals are proposed to be covered under the plan.

This is to advise that the California Department of Fish and Game as a

☐ Lead Agency ☒ Responsible Agency

approved the project described above on July 17, 1996 and has made the following determinations regarding the project:

1. The project [☐ will ☒ will not] have a significant effect on the environment.
2. ☒ An Environmental Impact Report was prepared for this project pursuant to the provisions of CEQA.
☐ A Negative Declaration was prepared for this project pursuant to the provisions of CEQA.
3. Mitigation measures[☒ were ☐ were not] made a condition of the approval of the project.
4. A statement of Overriding Considerations [☐ was ☒ was not] adopted for this project.
5. Findings were made pursuant to the provisions of CEQA.
6. DFG filing fees ☐ are included ☒ are not included

Reasons: ☐ De Minimis Impact ☒ Responsible Agency Review

This is to certify that the final EIR with comments and responses and record of project approval is available to the General Public at:

Orange County Environmental Management Agency, 300 N. Flower Street, Santa Ana, CA 92702-4048

Reginald E. Acasofel DIRECTOR
Signature of Public Agency Representative Title

July 17, 1996
Date

**CALIFORNIA DEPARTMENT OF FISH AND GAME
FINDINGS FOR THE ORANGE COUNTY CENTRAL AND
COASTAL NATURAL COMMUNITY CONSERVATION
PLAN/HABITAT CONSERVATION PLAN (NCCP/HCP)**

I. NATURAL COMMUNITY CONSERVATION PLANNING ACT (NCCP ACT)

A. *Introduction*

The California Department of Fish and Game (CDFG) has authority to enter into agreements for the purpose of preparing and implementing a natural community conservation plan that provides for comprehensive management and conservation of multiple wildlife species (See Fish and Game Code §2810).¹

B. *Compliance with the NCCP Act*

1. Based on the analysis in the NCCP/HCP, Chapters 7 and 8 of the Final Environmental Impact Report/Final Environmental Impact Statement (EIR/EIS), the County of Orange Findings per the California Environmental Quality Act (CEQA) and sections 2 and 3 of the NCCP/HCP Implementation Agreement (IA), CDFG finds that the NCCP/HCP "identifies and provides for the regional or area wide protection and perpetuation of natural wildlife diversity." The NCCP/HCP IA and the NCCP/HCP also allow for compatible and appropriate development" (see §2805 (a)).

2. Pursuant to §2810, CDFG entered into a Planning Agreement in June, 1993 for the preparation of the NCCP/HCP. The NCCP/HCP provides comprehensive management and conservation of the subregion's multiple wildlife species including but not limited to those species listed pursuant to the California Endangered Species Act, §2050 et seq. (CESA).

3. Pursuant to §2820, the NCCP/HCP has been carried out in accordance with the CDFG/U.S. Fish and Wildlife Service (USFWS) Memorandum of Understanding (MOU) dated December 4, 1991 and the Orange County Planning MOU dated June 1993. Pursuant to §2820 and §2825(a), CDFG prepared and adopted the Southern California Coastal Sage Scrub (CSS) Natural Community Planning Process Guidelines and Conservation Guidelines in November 1993. These are the guidelines referenced in the USFWS special 4(d) Rule for the California gnatcatcher. For the reasons set forth in Section "C" below, CDFG has determined that the plan is consistent with the Orange County Planning MOU.

¹All further citations are to the Fish and Game Code.

C. *Compliance of the NCCP/HCP with the NCCP Conservation Guidelines and Planning Process Guidelines*

For the following reasons and for the reasons set forth in the NCCP/HCP IA sections 2 and 3, CDFG finds the NCCP/HCP consistent with the Conservation Guidelines.

1. *Southern California CSS Natural Community Conservation Guidelines*

Pursuant to §2825(a), in November 1993, CDFG adopted the Conservation Guidelines ("Guidelines"). As provided in §2825(c)(a) 1 - 4, 6 - 9, the Conservation Guidelines:

- (a) Define the scope of a conservation planning area at the regional, subregional and subarea levels;
- (b) Provide for conservation standards, guidelines and objectives for the planning area;
- (c) Reflect the recommendations of the Scientific Review Panel as an advisory panel "regarding the preparation and implementation of natural community conservation plans" within the southern California CSS program area;
- (d) Provide a basis for ensuring compatibility with the Federal Endangered Species Act (FESA);
- (e) Provide a basis for obtaining the approval of the NCCP/HCP by CDFG;
- (f) Identify the critical ingredients of a plan which must be implemented; and
- (g) Provide direction for monitoring and reporting on plan implementation.

2. *NCCP/HCP Provisions*

(a) The NCCP/HCP provides a comprehensive Reserve System consistent with the tenets of reserve design of the Guidelines (NCCP/HCP, Chapters 7 and 8 of the EIR/EIS, sections 4 and 5 of the NCCP/HCP IA and the County CEQA Findings; Guidelines at p. 9) and which promote biodiversity, provide for no net loss of habitat value from the present, taking into account management and enhancement (NCCP/HCP, Chapters 4, 7 and 8 of the EIR/EIS and the County CEQA findings).

(b) A comprehensive, funded Adaptive Management Program (NCCP/HCP, Chapters 7 and 8 of the EIR/EIS, Sections 5.3 - 5.4 of the NCCP/HCP IA and the County CEQA findings, Guidelines "Management and Restoration").

(c) An ongoing monitoring/research program which addresses each of the 6 elements of the Guidelines "research agenda": (NCCP/HCP, pages II-259 to II-269; also in EIR/EIS Appendix 15).

3. Interim Take Permits

Interim take permits have complied with the "interim strategy" requirements of the Guidelines (Chapter 9 of the EIR/EIS, County of Orange Quarterly Reports) and total CSS acreage is significantly less than the 5% allowance in the Guidelines (additionally substantial mitigation has been required considerably reducing the net impacts of allowed interim take acreage summarized in the County's the CSS interim take reports).

4. The Southern California CSS Natural Community Conservation Planning Process Guidelines Address §2825(a)(4) and (5)

As provided in the NCCP/HCP and EIR/EIS document the NCCP/HCP planning process in Part I and Part II, Chapters 1-3 of the NCCP-HCP and in Chapters 1 and 2 of the EIR/EIS. Additional elements of the NCCP Process Guidelines are addressed by the NCCP/HCP Implementation Agreement. Accordingly, the NCCP/HCP, and its associated EIR/EIS environmental review process and Implementation Agreement, are determined to be in accordance with the NCCP Process Guidelines.

D. *Consistency with the Implementation Requirements of the NCCP Act and the 4(d) Rule.*

As required by §2810, §2820, §2825(a), and the 4(d) rule, the NCCP/HCP IA addresses and provides for plan implementation, monitoring and reporting, and amending the plan with ongoing review pursuant to the EIR/EIS NCCP/HCP Mitigation and Implementation Agreement Monitoring Program. The NCCP/HCP IA also specifically provides that the plan shall be implemented in accordance with §2825(c), §2830 and §2835.

E. *Compliance with the 4(d) Rule*

The special 4(d) Rule for the California gnatcatcher, adopted by USFWS on December 10, 1993, provides, in part:

"Incidental take of the coastal California gnatcatcher will not be considered a violation of § 9 of the Endangered Species Act of 1973, as amended (Act), if it results from activities conducted pursuant to the State of California's Natural Community Conservation Planning Act of 1991, and in accordance with a NCCP plan for the protection of CSS habitat, prepared consistent with the State's NCCP Conservation and Process Guidelines, provided that:

- (i) The NCCP plan has been prepared, approved, and implemented pursuant to §§2800 - 2840; and
- (ii) The Fish and Wildlife Service has issued written concurrence that the NCCP plan meets the standards set forth in 50 CFR 17.32(b)(2)."

CDFG's findings herein are intended to demonstrate that NCCP/HCP has been prepared, approved and implemented in compliance with subsection (i) above.

II. CEQA DETERMINATION

Based on the above findings and determinations, and its review of the NCCP/HCP EIR/EIS and for the purpose of meeting the requirements of CEQA Guidelines Section 15096 for a Responsible Agency, CDFG has considered the environmental effects of the NCCP/HCP as reviewed in the EIR/EIS, pursuant to CEQA Guidelines Section 15096(f); has through the NCCP/HCP Implementation Agreement, provided for mitigation measures consistent with the mitigation measures set forth in the final EIR/EIS, in fulfillment of CEQA Guidelines Section 15096(g); and hereby adopts the Findings and Facts in Support of Findings as adopted by the County of Orange Board of Supervisors Resolution No. 96-254A on April 16, 1996 (Notice of Determination State Clearinghouse Number 93071061), in fulfillment of CEQA Guidelines Section 15096(h).


Jacqueline E. Schafer
Director