
Roles & Responsibilities of Consultants in Developing NCCP/HCPs

Ingrid Hogle
Graduate Fellow, California Department of Fish & Game
Sustainable Communities Leadership Program
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TABLE OF CONTENTS

EXECUTIVE SUMMARY	4
INTRODUCTION	7
GOALS	9
METHODOLOGY	10
BACKGROUND	11
Basic roles and responsibilities	11
<i>Applicant</i>	11
<i>Wildlife Agencies</i>	11
<i>Other Regulatory Agencies</i>	12
<i>Attorneys</i>	12
<i>Independent Science Advisors</i>	12
<i>Stakeholders & Public</i>	12
<i>Consultants</i>	13
RESULTS FROM CASE STUDIES	13
Alternative relationship models	13
Central-Coastal Orange County NCCP/HCP	14
Western Riverside County Multi-Species Habitat Conservation Plan	14
San Diego Multiple Species Conservation Program	16
DISCUSSION	18
Defining the Role of the Consultant through the Scope of Work	18
Responsibilities Allocated to Consultants	18
<i>Technical Expertise</i>	18
<i>Administration and Organization</i>	18
<i>Outreach</i>	19
<i>Facilitation</i>	19
Successes and Challenges of Consultant Roles	19
<i>Technical Consultants: Economics</i>	19
<i>Technical Consultants: Legal</i>	20
<i>Technical Consultants: Policy</i>	20
<i>Technical Consultants: Land Use Planning</i>	21
<i>Technical Consultants: Conservation Biology</i>	21
<i>Collect & Synthesize Information</i>	

<i>Develop Strategies to Cope with Inadequate Data</i>	
<i>Understand the Challenge of Compromise</i>	
<i>Defend Conclusions with Scientific Integrity</i>	
<i>Consult with Wildlife Agencies</i>	
<i>Develop Alternative Reserve Designs</i>	
<i>Provide Recommendations</i>	
<i>Present Useful Information</i>	
<i>Get it in Writing</i>	
Administrative/ Organizational Consultants	27
<i>Advise on Process</i>	
<i>Set Schedules</i>	
<i>Budget</i>	
<i>Organize Meetings</i>	
<i>Manage Consultant Team</i>	
<i>Coordinate Plan Development</i>	
<i>Troubleshoot</i>	
Outreach Consultants	30
<i>Hire Outreach Specialists</i>	
<i>Educate Early</i>	
<i>Raise Public Support</i>	
<i>Integrate Public Feedback</i>	
<i>Continue Outreach and Education</i>	
Facilitative Consultants	32
<i>Be Objective</i>	
<i>Know the Issues</i>	
<i>Ensure Plan Progress</i>	
<i>Facilitate Group Consensus</i>	
<i>Have patience</i>	
<i>Meet Informally with Participants</i>	
<i>Engage Wildlife Agency Decision-Makers</i>	
<i>Involve Local Political Leadership</i>	
Financing the Consultants	37
Relationship between Consultants and Independent Science Advisors	38
RECOMMENDATIONS	39
INDEX OF ABBREVIATIONS	40
APPENDIX	41
Assessing Information Needs: Interview Handout	41
Assessing Southern California Strategies: Interview Handout	42

Executive Summary

The California Natural Community Conservation Planning Act and the Federal Endangered Species Act allow for the development of Natural Community Conservation Plans (NCCPs) and Habitat Conservation Plans (HCPs) by applicants seeking permits for activities affecting threatened or endangered species. All NCCP applicants to date have developed joint NCCP/HCPs with the assistance of hired consultants. The California Department of Fish and Game (CDFG) recognizes that the relationship between applicant and consultant can vary from plan to plan, as can the responsibilities delegated to consultants.

Several new NCCPs have been initiated in northern California. The aim of this report is to provide guidance from CDFG on effective roles and responsibilities of consultants in the NCCP/HCP process. This objective was achieved by evaluating several NCCP/HCPs in southern California as case studies and by interviewing participants in those plans who represented a broad range of perspectives. The material presented in this report is based on the information gathered during those interviews. CDFG hopes that this report will be useful for consultants and local planning representatives new to the NCCP/HCP process.

The case studies and descriptions of successful roles played by consultants in NCCP/HCP development were obtained through interviews with 55 individuals representing private consultants, applicant jurisdictions, wildlife agencies, developers, environmentalists, attorneys and elected officials involved in conservation planning in California.

Research into the case studies presented in this report revealed that the consultant-applicant relationships that developed in southern California fell into three major categories, representing the following general models:

- * **Landowner-driven**, as exemplified by the Central-Coastal Orange County NCCP/HCP.
- * **Jurisdiction-driven**, described by the Western Riverside County Multi-Species Habitat Conservation Plan.
- * **Team-driven**, as characterized in the development of San Diego's Multi-Species Conservation Program.

Based on the interviews, the team-driven model is preferred by the wildlife agencies and most plan participants for its collaborative approach to NCCP/HCP development. Plan participants expressed concern that consultants in the landowner-driven model may be biased by their client's interests. The jurisdiction-driven model raised concerns that strong central control can reduce the level of trust and communication among interest groups participating in plan development.

Consultants hired by applicants to assist in the development of NCCP/HCPs took on any of four types of responsibilities:

- * Technical expertise
- * Administration and organization
- * Outreach
- * Facilitation

Technical consultants can be useful in providing expertise on conservation biology, economics, land use policy and legal requirements. Successful technical consultants are characterized by:

- * Providing appropriate levels of technical expertise
- * Incorporating input from other plan participants
- * Communicating their results to people outside their discipline
- * Offering recommendations

Administrative and organizational roles can be successfully filled by consultants with experience in logistical support, budgeting, setting schedules, coordinating the consultant team, and anticipating problems before they develop. Consultants with this responsibility should have experience with the regional conservation planning process and should maintain close contact with both the applicant and the wildlife agencies.

Outreach specialists can be contracted to raise public support and get feedback from the public on NCCP/HCPs. CDFG encourages applicants to fund efforts to ensure successful community outreach as public input is a core value of the NCCP Act. Effective outreach efforts should begin early in the NCCP/HCP planning process and should continue throughout plan development and implementation to ensure continued public support and to help secure funding.

Consultants can serve as facilitators but should not serve as leaders of the NCCP/HCP process. Leadership should come from local elected officials and/or the applicant.

Successful facilitators are:

- * Solution-oriented
- * Trained in facilitation
- * Dedicated to consensus-building
- * Patient
- * Independent & objective
- * Trusted by all participants
- * Able to build trust and cooperation among participants
- * Knowledgeable of the issues
- * Trained in negotiation of win-win solutions
- * Able to unite diverse constituents
- * Empowered to engage agency decision-makers and local political leadership

Based on interview results, CDFG recommends that applicants look for consultants with local expertise who are trusted by the community to be honest and objective in their work, and who have experience in large scale, regional conservation planning. Consultants can increase their effectiveness by educating themselves about the NCCP process. Close, ongoing cooperation with CDFG will help lead to successful plan development. CDFG recommends that consultants work collaboratively as a part of the NCCP/HCP development team, seeing themselves as advocates for the plan rather than advocates for just their client.

Introduction

This report is the result of a fellowship project that focused on investigating the roles and responsibilities of consultants in the development of California Natural Community Conservation Plans (NCCPs) and the affiliated federal Habitat Conservation Plans (HCPs). The aim of this project was to produce guidance from the California Department of Fish and Game (CDFG) on effective qualities and strategies of consultants in the NCCP/HCP process. This was achieved by evaluating several NCCP/HCPs in southern California as case studies and by interviewing participants in those plans who represented a broad range of perspectives. This written evaluation is based on the information gathered during these interviews. CDFG hopes that this report will be useful for consultants and local planning representatives new to the NCCP/HCP process.

The California Natural Community Conservation Planning Act was enacted in 1991 to address perceived shortcomings of state-issued “take” permits under the California Endangered Species Act (CESA) and federally-issued “incidental take” permits via Habitat Conservation Plans (HCPs). Section 2081 of CESA allows CDFG to issue “take” permits for mitigated activities affecting state-listed species. Under the Federal Endangered Species Act (FESA) Section 10(a), the U.S. Fish and Wildlife Service (USFWS) has the authority to issue a permit for the “incidental take” of federally listed threatened and endangered species on private lands with the approval of conservation measures stipulated in an HCP. Critics contended that 2081 permits and HCPs tended to focus on single species and only provided mitigation for specific impacts rather than seeking to protect multiple species dependent upon impacted ecosystems (Pollack 2001, available online at www.library.ca.gov/crb/01/02/01-002.pdf). CDFG recommended new legislation to address these perceived short-comings by promoting a regional, scientific, and habitat-based approach to proactive conservation planning in California. The 1991 California NCCP Act was the resultant legislation. All plans prepared under the NCCP Act are developed in cooperation with the USFWS to produce joint NCCP/HCPs.

The California Natural Community Conservation Planning Act was first implemented in the coastal sage scrub ecosystem of southern California. The impetus for the Orange and San Diego Counties NCCP/HCPs was the proposed listing of a small bird, the California gnatcatcher, whose habitat included highly valuable, privately owned real estate in southern California. Conservation plans completed under this Act include the Orange County Central-Coastal NCCP/HCP and the San Diego Multiple Species Conservation Program (MSCP) plus several associated subregional and subarea plans. NCCP/HCP efforts are now underway in other areas of the state including western Riverside County, Coachella Valley, southern Orange County, Placer County, and eastern Merced County.

Enactment of the NCCP Act brought a new focus to regional conservation planning in California. The NCCP Act emphasizes a partnership approach to planning and implementation, with collaboration among diverse stakeholders in the planning area. NCCP/HCP plans must meet conservation standards that provide for the recovery of species within the plan area. In exchange for meeting these standards, the NCCP/HCP

program is flexible and allows applicants to develop different approaches towards meeting the overarching goal of planning for scientifically-based, regional conservation of ecological communities. Each NCCP/HCP has developed differently, and no single process is “right” or “wrong”. CDFG encourages different areas to develop their own approaches to conservation planning while maintaining close communication with CDFG staff to ensure that the NCCP/HCP is developed consistent with conservation standards. Meeting the standards of NCCP/HCP also provides regulatory assurances to plan participants that no further mitigation or conservation will be required so long as the plan is implemented properly. This also allows for contributions to implementation of the plan, such as habitat acquisition, monitoring and management, by CDFG.

Legislation passed in 2002 (Senate Bills 107 and 2052) revises the original NCCP Act. It establishes new standards and guidance on many facets of the program, including scientific input, public participation, biological goals, interim project review, and plan approval criteria.

CDFG hopes that the new Act and supplemental guidance from CDFG (including this report) will assist applicants, consultants, and other plan participants by clarifying CDFG’s vision for the NCCP/HCP program. Further resources are also available on the CDFG NCCP website (<http://www.dfg.ca.gov/nccp/>).

This project was conceived of and supervised by Gail Presley and Brenda Johnson of the Habitat Conservation Planning Branch of CDFG. Ingrid Hogle, a graduate fellow with the Sustainable Communities Leadership Program, researched NCCP/HCP planning processes, carried out interviews with NCCP/HCP participants, and developed this evaluation in the summer and fall of 2002.

Goals

Environmental consultants play diverse roles in developing NCCP/HCPs, from providing scientific data and analyses, to facilitating meetings, to working directly with policy makers to translate scientific concepts into land use planning policy. The roles and responsibilities of environmental consultants in developing NCCP/HCPs vary depending on the needs of the client (typically the NCCP/HCP applicant), complexity of the plan, level of knowledge of stakeholders, and many other factors. CDFG initiated this evaluation of the roles and responsibilities of consultants in NCCP/HCP development as a means of 1) assessing the experiences and contributions of consultants who have worked on completed plans, and 2) transferring this information to future participants in NCCP/HCP planning processes.

The objectives of this project were:

1. To document and assess the roles played by consultants in NCCP/HCP development,
2. To evaluate successful and unsuccessful strategies consultants have used to date in filling these diverse roles in the NCCP/HCP process,
3. To provide guidance from CDFG on effective roles and responsibilities of consultants in the NCCP/HCP process.

This report summarizes interview responses and outlines recommendations from CDFG based on these results. This report will be available to the general public via the CDFG NCCP website.

Methodology

To assess the information needs of consultants and NCCP/HCP applicants, 16 individuals with little or no NCCP/HCP experience were selected and contacted. The majority of these interviews were conducted prior to the development of questions for more experienced NCCP/HCP participants, to ensure that questions were framed such that the information and insights gained would be most relevant to new NCCP/HCP participants.

The initial list of potential interviewees who had little or no NCCP/HCP experience was recommended by project supervisors. This list was subsequently expanded by incorporating suggestions from interviewees.

A total of 55 experienced individuals (including the 16 initial interviewees) were interviewed regarding the role of consultants in developing NCCP/HCPs. These included 13 present and former wildlife agency staff (7 from CDFG, 6 from USFWS), 2 natural resources attorneys, 1 local government elected official, 4 building industry representatives, 14 consultants, 8 representatives of environmental organizations, 12 local government planners and staff members, and 1 individual who served as an independent scientific advisor to NCCP/HCPs. Interview questions can be found in the appendix.

Interviews were conducted either in-person or over the phone, and most interviews lasted 1 to 1 ½ hours.

Background

Basic roles and responsibilities

The role of consultants in developing NCCP/HCPs must be viewed in the context of the roles and responsibilities assumed by other plan participants. This section of the report is intended to inform individuals unfamiliar with the NCCP/HCP process about the basic roles and responsibilities assumed by the various parties participating in Southern California plans. Parties involved include the applicant, the wildlife agencies (CDFG, USFWS and/or NMFS), other regulatory agencies (which may include Army Corps of Engineers, California Coastal Commission, and others), independent scientific advisors, stakeholders, lawyers and members of the public. While details of the responsibilities assumed by these groups and individuals vary among plans, interviews revealed that the fundamental roles and responsibilities are generally well-defined and remain consistent among plans.

Applicant

The applicant is the entity seeking the issuance of incidental take permits upon approval of the NCCP/HCP. Jurisdictions and public facility providers (cities, counties, regional associations of government, water districts and utility companies) are the applicants in the NCCP/HCP programs in San Diego and Central-Coastal Orange Counties. Elected officials within participating jurisdictions have shown strong leadership in moving development of NCCP/HCPs to completion. These elected officials took on the responsibility of promoting the NCCP/HCP, setting policy, ensuring funding, motivating participation and encouraging plan participants to make the often difficult decisions during the negotiation phase of plan development. It is the responsibility of the applicant to prepare the NCCP/HCP in coordination with the other plan participants. In all NCCP/HCPs prepared to date, the applicant has hired one or more consultants to assist with this responsibility.

Wildlife Agencies

As active partners in NCCP/HCPs, the wildlife agencies assist the applicant in all stages of plan preparation, ensuring that the NCCP/HCP meets the conservation standards set forth in the NCCP Act and FESA. They also have the authority to approve the NCCP/HCP and issue incidental take permits to the applicant. Local wildlife agency staff are responsible for assisting the applicant in NCCP/HCP development through consultations with the applicant, supply of technical information and expertise, participation in meetings with the applicant and stakeholders to develop the plan, and review of draft documents. In southern California, local assistance comes from the USFWS Carlsbad office and the CDFG office in San Diego. Higher-level agency personnel provide policy guidance and oversight to the NCCP/HCP process throughout plan development.

The wildlife agencies have somewhat different programs under FESA and the NCCP Act. In an effort to streamline the process and reduce confusion for local participants, the wildlife agencies strive to present a unified perspective throughout the planning process. This requires a significant on-going effort to coordinate among the wildlife agencies on all plan issues.

Other Regulatory Agencies

Coordination with additional state and federal regulatory agencies is desirable in order to develop a plan that meets the requirements of each agency's permit requirements. The Army Corps of Engineers administers the permitting process under Section 404 of the Clean Water Act. The California Coastal Commission is the lead agency regulating coastal zone development under the California Coastal Zone Act. Through their involvement in NCCP/HCP development, these agencies provide proactive input towards conserving the resources they are mandated to protect.

Attorneys

Attorneys represent their client's legal interests, assure that the negotiated NCCP/HCP follows existing legal requirements, and assist in drafting the language of the Planning and Implementing Agreements. Interviews with participants from completed NCCP/HCPs noted that it is important that attorneys are kept informed during the negotiation phase of NCCP/HCP development so that they can more effectively serve as legal counsel during Implementation Agreement development and to assure accuracy in permit write-up. Participants also noted that it is inefficient to involve attorneys too early in the process, and ineffective to have attorneys driving the NCCP/HCP process.

Independent Science Advisors

In southern California, the California coastal sage scrub NCCP planning process relied on guidance from a Scientific Review Panel (SRP) made up of scientists independent from the planning process. The role of the SRP was to collect available information into a region-wide scientific framework containing recommendations regarding scientific survey methods and principles for the conservation of species covered in the plans. The SRP developed a set of Conservation Guidelines (CDFG 1993) that addressed interim strategies, research needs, habitat management and restoration, basic tenets of reserve design, and conservation value of habitat lands. The Western Riverside County NCCP/HCP has solicited independent scientific input at various stages during the planning process, and continues to involve local scientists in development of the monitoring and adaptive management components of the plan.

Stakeholders & Public

The 1991 NCCP Act and Coastal Sage Scrub NCCP Process Guidelines (CDFG 1992) provided for public participation throughout plan development and review. The process sought to ensure cooperation among interested persons to facilitate early coordination of

planning for habitat protection and economic stability. The format for public input in Southern California NCCP/HCPs differed between plans. Processes for public participation included public steering committee meetings and publicly-noticed informational meetings.

Consultants

The role of consultants in NCCP/HCP development is to assist their clients with defined responsibilities. Both the applicant and special interest groups may hire consultants to assist with various tasks during plan development. This report focuses specifically on the roles and responsibilities of expert consultants hired by the applicant.

Results from Case Studies

Alternative relationship models

The applicant must clearly define what kind of role they want their consultants to play. In southern California, the consultant-applicant relationships fell into three major categories, representing the following general models:

Landowner-driven. The consultant was paid by a private land owner, had primary control over the NCCP/HCP process, and was largely self-directed in the construction of the plan.

Jurisdiction-driven. The consultant acted as an extension of the staff of a public agency and put the NCCP/HCP together under the direction of the public agency.

Team-driven. The consultant was part of the applicant/wildlife agency/stakeholder team working to put together the NCCP/HCP. The process was collaborative throughout, with all parties to the planning agreement providing input to direct the work of the consultants.

An open discussion between the applicant and the wildlife agencies is needed to determine what role the consultant(s) will have and to allow the applicant to select the right consultant(s) to fill this role. The resources and goals of the applicant, the specific land ownership situation, and the qualifications of the consultant(s) will determine which approach will be most effective for an individual plan.

While no one model is right or wrong, participants in completed plans noted pros and cons to each of the above models. Respondents to this survey believed that the model chosen depends on the time availability, degree of technical expertise and level of understanding of the NCCP/HCP process among the city and county staff working on the project. Whoever controls the process must be adept at negotiating the final deal with the wildlife agencies, understand relevant laws and regulations, and understand potential problems with implementation, said experienced participants. The great majority of interviewees favored the team-driven model.

Central-Coastal Orange County NCCP/HCP

A landowner driven-approach was used in the Central-Coastal Orange County NCCP/HCP, in which the consultant was paid by a landowner and had primary control over NCCP/HCP development. The lead consultant managed the whole process, including designing an outline for the NCCP, putting together a proposal for what was needed, assembling a consulting team, and writing the majority of the NCCP.

Interviewees pointed out that the County was not heavily involved in developing the plan even though the County was a co-applicant with the landowner. Consultants and agency personnel who worked on the plan were careful to clarify that the model for Orange County plans is very different from other NCCP/HCPs because much of the undeveloped portion of Orange County is owned by two landowners who are seeking NCCP take and incidental take permits directly from CDFG and USFWS through the NCCP/HCP process. In other southern California NCCP/HCPs, landowners number in the tens of thousands and permits are being sought by the local governments.

The Central-Coastal Orange County NCCP/HCP model had benefits in terms of efficiency. This landowner driven plan coordinated by a single consultant progressed quickly, taking a little over 3 years.

Critics maintained that the potential conflict of interest inherent in the model of a single landowner paying the consultant led to a closed process and a negative perception of the Central-Coastal NCCP/HCP. Wildlife agency officials and environmentalists felt that there was a potential conflict of interest because the consultant had already been working for the landowner and was paid by the landowner. Respondents stated that the agencies should not allow the consultants to be accountable to, paid for and hired by a private interest, but rather should require that consultants be paid by a public entity. Problems cited by a number of interviewees included a lack of public relations outreach, no public notice of meetings, no true public input, and development of the plan by a small group of people. Participants in other plans felt that the single-consultant, landowner-driven model used in Central-Coastal Orange County is not a preferred model.

Western Riverside County Multi-Species Habitat Conservation Plan

Riverside County is developing its Western Riverside County NCCP/HCP using a consultant team that works as an extension of applicant staff under the leadership of the applicant. The Western Riverside County Multi-Species Habitat Conservation Plan (MSHCP) is being integrated with a revised County General Plan and transportation corridor plan into the Riverside County Integrated Project (RCIP). The Riverside County Board of Supervisors is responsible for the RCIP and thus has been heavily involved in MSHCP since its inception. They hired consultants to put together a feasibility study based on existing biological data, then held two "Go/ No Go" votes on whether or not to proceed with developing the MSHCP as a component of RCIP. The consultants on the MSHCP continue to do the biological work and the Western Riverside Council of Governments staff prepare economic and growth forecasting analyses. The biological

consultants make proactive suggestions regarding issues that are ultimately decided by the County. Consultants in this plan do not take on a facilitator or advocacy role. The County takes the lead in hosting and running MSHCP stakeholder meetings, with the consultants providing technical information at these meetings.

In the model of Western Riverside, the applicant directs the consultants and exerts strong control over the NCCP/HCP development process. Observers note that while the consultants have a huge effect, the county has a much greater role than in the Orange County NCCP/HCPs. Riverside County originally wanted stakeholders to drive the plan, said participants, but after spending a lot of time without much progress, questions came up as to whether or not the stakeholders really wanted the plan at all. In the view of some participants, the County created stakeholder mistrust by choosing to go ahead with the plan without stakeholder consensus. Other participants explained that the complexity and number of stakeholders involved precluded agreement of all stakeholders on all issues, requiring elected officials to make decisions that they felt were in the public's best interests. The Riverside County Board of Supervisors directs the consultants to follow the recommendations of the stakeholder group when the group reaches consensus. On issues that the stakeholders cannot resolve, consultants receive direction via decisions made by elected officials.

Consultants in Western Riverside are not empowered to facilitate resolution of issues. In this NCCP/HCP, the county maintains tight control of the negotiation process. Participants expressed concern over the strategy being used by the county, such as holding separate meetings with interest groups rather than negotiating in one sitting with all of the players. This strategy of addressing issues in pieces was seen as problematic because it led to delay as interest groups questioned whether or not the county drove the best bargain with the other interest groups.

Plan participants commented that strong political leadership from the County directing the work of consultants in the MSHCP process has both benefits and drawbacks. Some environmental interests supported this county-led approach because they believed that, as public entities, jurisdictions were less likely to be perceived as biased in how they directed the consultants. One agency representative believed that the strong support from the Riverside County Board of Supervisors and high level wildlife agency staff made this plan an exemplary effort due to the excellent outreach and publicity for the plan generated by these officials. A former participant in the Riverside efforts expressed frustration that elected decision-makers in the Western Riverside plan were involved too early and too heavily, commenting that it became too apparent what the decision-makers would support. In the view of that respondent, such strong control rendered the negotiation process among stakeholders and recommendations of the steering committee ineffective. Some participants saw heavy involvement of elected officials as a drawback due to the high rate of turnover implicit in politics.

San Diego Multiple Species Conservation Program

In San Diego's Multiple Species Conservation Program (MSCP), the consultants worked under the direction of, and in collaboration with, all plan participants. Consultants and agency personnel describe this NCCP/HCP model as team-driven rather than client-driven.

The "team" was the MSCP Working Group, whose major players included representatives from the City of San Diego, San Diego County, San Diego Association of Governments, CDFG, and USFWS, public utility providers, environmental organizations, landowner organizations and developer/builder representatives. The Working Group served as the official forum for collaboration and decision-making among sometimes disparate interests. Participants explained that it was important to have representatives from every group in order to establish a trust among all the players that everyone was dealing in good faith. Two Working Group members were chosen as chair and vice chair. The chair was the San Diego Mayor's environmental issues representative and the vice chair was a representative of the Building Industry Association, chosen to represent landowner concerns.

City and County staff guided the direction of the consultants based on the consensus of the Working Group. The Working Group chairperson forced the group to reach consensus, not letting the group pass over tough issues. Participants appreciated this focus on collaborative problem-solving, and felt that once the group started to reach agreements, the process of consensus took on an energy of its own. The commitment of Working Group members to reach consensus was seen by participants as necessary to enabling the success of the consultants. Participants describe Working Group negotiations as a collaborative process with an equal number of environmentalists and land-owners weighing in on decisions, and with the applicants, who paid the consultants, serving as a check on what could not be afforded, time or money-wise. Individuals involved in directing the work of the consultants explain that although ultimately consultants had to do what the City and County staff required, the process of determining consultant direction was collaborative.

In the MSCP, a "lead" consulting firm was selected to coordinate the work of technical and policy consultants on plan development. The lead firm specialized in biology and conservation planning and hired subcontractors to work on the economic and policy aspects of the plan. The lead consulting firm prepared biological surveys, habitat models, gap analysis, and alternative conservation scenarios for the Working Group to consider. A subcontractor with expertise in economics and land use planning conducted economic analyses and put forth several alternative models for funding MSCP implementation. A subcontractor with policy expertise helped to resolve issues behind the scenes by facilitating agreements, develop the plan's recommendations and implementation strategy and write issue papers.

The consultants compiled and analyzed biological, economic and land use data and presented this information and their recommendations at monthly Working Group meetings. The consultants would present updates on their work, bring in issue papers that needed to be addressed by the group, and try to craft and re-draft language based on feedback from the Working Group. When the Working Group could not resolve issues, consultants facilitated subgroups set up by the Working Group chair to focus on specific biological or economic issues. Consultants participated in Working Group meetings as technical and organizational support, but they were not members of the Working Group and could not make final decisions on plan content.

Consultants faced two major challenges in this team-driven model. The first challenge was to get the Working Group to reach agreement on common goals for the NCCP/HCP. The second challenge was to reflect these common goals in a plan that all Working Group members could agree to support.

Initial lack of teamwork within the Working Group made it difficult for consultants to operate. Most plan participants interviewed felt that a strong sense of teamwork ultimately developed within the Working Group, but they noted that these feelings took time to mature. Some environmental representatives interviewed commented that the team spirit that developed among Working Group members eliminated the opportunity for dissension, with critics being marginalized for not working towards establishing trust. The divergent interests within the Working Group challenged the consultants by demanding inscrutable accuracy of data analysis and professionalism in the face of personal anxiety over such a controversial plan. Working Group members recalled that it took two years for them to get past ideological stereotypes, resolve communication issues, and define common goals. The Working Group chair acknowledged that working with a myriad of stakeholders was a challenge for consultants, and that the solution was to require consensus within the Working Group, which presented its own challenges.

The collaborative, consensus-based model used in MSCP required time and the creativity of plan participants and consultants to resolve impasses over plan content. Participants explained that after four years of the Working Group giving direction to the consultants to put together white papers and maps, the consultants came up with four alternative scenarios. The process stalled when no jurisdictions liked any of the consultant-proposed scenarios. After a 1-year hiatus, subareas were proposed as a change in direction that would allow jurisdictions to retain individual local land use authority. The subarea plans were knit together, reviewed by the agencies, and adopted as a regional plan. The economic consultant to the plan similarly proposed several alternative funding mechanisms to pay for plan implementation. None of these alternatives has been fully employed, and elected officials continue to search for creative mechanisms to fund MSCP implementation efforts.

Discussion

Defining the Role of the Consultant through the Scope of Work

Consultants, applicants and agency personnel expressed the shared opinion that the Scope of Work developed by the applicant or steering committee should clearly define the roles of the consultants, with the understanding that amendments will be inevitable as the plan develops. Individuals varied in their impression of whether or not the roles of consultants in completed plans were clearly defined. Some consultants thought that their roles were clearly defined at the general level, but noted that their roles changed as the needs, priorities and scope of plans changed over time. These changes were addressed through contract amendments. The contract for consultants in San Diego's MHCP, for example, has been amended 17 times!

Responsibilities Allocated to Consultants

Development of an NCCP/HCP requires technical, administrative and organizational expertise, negotiation among diverse parties, and the persistence to carry the process to fruition. Consultants may be hired to assist with any of these tasks. This section briefly describes the responsibilities that need to be completed to successfully develop an NCCP/HCP, with special attention given to describing tasks performed by consultants. What follows these short descriptions is a synthesis of interview responses regarding the challenges of NCCP/HCP development and the techniques used by consultants to meet these challenges in completed and ongoing NCCP/HCPs.

Technical Expertise

Technical experts serve as the backbone of the NCCP/HCP process, providing much of the information and advice on which negotiations are built. Qualified individuals are needed to provide expertise in specific disciplines, including conservation planning, biology, economics, land use policy and legal requirements. Coordination with the wildlife agencies is necessary regarding technical biological, conservation, and legal issues. In addition to presenting information, professionals working on the plan may be asked to provide recommendations to the applicant, steering committees and elected officials as the process moves forward. Issue papers are written, decision-making processes are documented, and once decisions are made, the plan itself is written and associated environmental documents such as an EIR/EIS are prepared.

Administration and Organization

Administrative and organizational support ensures the flow of information among the consultant team, plan participants and the public throughout the NCCP/HCP process. Applicants may need advice on the steps of the NCCP/HCP process and how to get

started. A consultant may be hired as a project manager to oversee plan development. A lead consultant or staff person coordinates the work of staff and consultants on the plan. Logistical support is needed to organize and host steering committee meetings.

Outreach

Outreach is essential to acquiring public support and ensuring plan success. Plan participants were not satisfied with the limited education and outreach efforts of completed NCCP/HCPs, as documented prior to this study by Sustainable Communities Leadership Program graduate fellow Chris Nyce (Nyce 2001; see www.dfg.ca.gov/nccp for a link to this document). Consultants or others are needed to establish and implement the public participation process and develop outreach methods. Responsibilities may include publicizing the NCCP/HCP effort through websites, printed materials, and community information meetings.

Facilitation

Because it involves intense negotiation and decision-making, the NCCP/HCP development process requires excellent facilitation. Participants in the plan have the responsibility to advocate their positions and to negotiate solutions to conflicts. Facilitators advocate for the plan as a whole by focusing on the identification and resolution of problems through the group decision-making process. Consultants may be hired to facilitate collaborative decision-making among plan participants and to engage local political officials in the NCCP/HCP process.

Successes and Challenges of Consultant Roles

Technical Consultants: Economics

Most applicants in completed NCCP/HCPs hired a consultant to estimate economic costs of the plan and to assist in developing financial strategies. The Central-Coastal Orange County plan used economic analyses provided by the landowner. In other plans, a financial consultant was charged with determining how to value the land and how to finance land acquisition and management.

Interviewees were generally pleased with the expertise of financial consultants. However, Building Industry Association (BIA) representatives expressed concern that land was under-valued by the applicant's consultant in the San Diego MSCP; they hired their own consultants to calculate land values and advocate for BIA.

The applicant's financial consultant working on the MSCP had a background in finances and land use planning. Colleagues and clients found that this combined expertise was extremely valuable. The consultant was seen as helpful by all respondents for providing strategic recommendations based on input from the steering committee. The consultant also incorporated input from the local jurisdictions on what the cities would support and what the general public would accept. Based on this input, the economic consultant

developed sample financing plans for the steering committee to consider. Challenging financial issues in the MSCP included difficulties in raising funds, lack of public support for new taxes, and fear of a government “land grab.” In one subarea plan, city planners felt that it was a positive strategy that the consultant was careful not to pin-point specific parcels.

Technical Consultants: Legal

The expertise and creativity of legal consultants was seen as critical in developing thorough and defensible Implementing Agreements. Attorneys helped to clarify the responsibilities of various participants, develop strategies for plan amendments and unforeseen circumstances, and address implementation issues such as new listings of species not covered by the plan or lack of participation by a party to the Implementing Agreement. Plan participants acknowledged that beyond experience in large-scale land use planning and local government processes, effective legal consultants were characterized by their creativity, integrity and focus on finding solutions.

Interviewees from several different plans commented that legal consultants should be involved at certain stages but do not need to actively participate throughout the entire planning process. Steering committee members agreed that legal consultants became useful at the transition point when certain issues evolved from strictly biological into politically influenced issues. Some respondents noted, however, that delays in legal involvement sometimes resulted in the development of policies that conflicted with existing law. In MSCP, attorneys commented on public drafts of documents after issues had been discussed and debated without legal counsel. One MSCP consultant commented that it would be helpful to have attorneys sit in on some advisory committee meetings to give the group more of a “heads up” on legal issues before draft plans become public.

Technical Consultants: Policy

Interviewees generally agreed that it was helpful to have a policy expert on the consultant team. One project manager found that a person with political savvy proved helpful in facilitating negotiations, and recommends that every NCCP/HCP process hire a policy consultant who understands politics and planning laws at all levels (federal, state, local).

Expertise and respect were the key characteristics attributed to effective policy consultants. Interviewees universally agreed that a successful policy consultant should have a familiarity with the NCCP Act and its workings, a thorough understanding of the local political environment, a good rapport with all players involved in setting NCCP/HCP policy, and the acumen to reconcile politics with community input. Respondents noted that a policy consultant must have the respect of all parties, including local elected officials and the wildlife agencies. Fewer respondents mentioned that an understanding of biology was necessary for the policy consultant to be effective. Experience in forging solutions to complex issues was seen as important, with one

respondent advising that applicants check references to judge if potential policy consultants have successfully worked on projects of this scale.

Technical Consultants: Land Use Planning

Many interviewees suggested that NCCP/HCP development could be greatly improved if planners had some understanding of local biology, and if biologists were educated on local planning laws. Interviewees generally believed that the planning departments of applicant jurisdictions were effective in supplying needed expertise in land use planning to NCCP/HCPs. Responsibilities assumed by city and county planners included advising consultants and plan participants on land use policies and constraints, addressing land use ordinances, and making necessary General Plan and local plan amendments. For example, planners with the City and County of San Diego took responsibility for making major changes in land use plans necessitated by the MSCP, including the Resource Protection Ordinance (Environmentally Sensitive Lands Ordinance), Biological Mitigation Ordinance, mitigation guidelines, General Plans and 40 associated Community Plans.

There are challenges to combining traditional land use planning with conservation planning under an NCCP/HCP. One planner noted that it is a challenge to reconcile laws like the Subdivision Map Act, where permit rules do not change, with new, proposed conservation areas. In many instances, a consulting team with both land use and biological expertise could help integrate these disciplines.

Technical Consultants: Conservation Biology

Collect & Synthesize Information

Technical consultants were perceived by all interviewees as effective in collecting and synthesizing information. Data gathering by consultants involved conducting biological surveys, contacting experts, and researching regulatory documents, published papers and “gray literature”. In MSCP, consultants asked independent experts for information on species through mapping sessions at various locations (libraries, CDFG offices, consultant offices, etc.), whereby the experts could add data to the maps. One agency representative commented that this strategy was good for public relations and promoting public involvement.

Consultants used a variety of successful techniques to synthesize collected information and distill this into a format useful for decision-makers. Heavy use of Geographic Information System (GIS) mapping and modeling were repeatedly mentioned as extremely effective techniques for synthesizing data. Other successful tools included gap analysis, spatial overlays of habitat with ownership boundaries, and extensive habitat modeling. Habitat models were used to predict species distributions, determine areas of high to low sensitivity, and prioritize areas for conservation. For example, a consulting firm specializing in GIS modeling adapted the SITES model with input from the science advisors to assist with reserve design for the San Diego North County MSCP subarea

amendment. Respondents advised that consulting teams need to contain expertise in landscape-level conservation biology and development of complex GIS applications for synthesizing natural resources data.

Develop Strategies to Cope with Inadequate Data

Lack of data, especially regarding site-specific resources on private lands to which biologists were not granted access, was cited by plan participants as one of the greatest challenges facing biological consultants. This challenge was met by developing GIS-based plans that depended heavily on habitat modeling. Consultants, environmentalists, wildlife agency staff, and science advisors often found it difficult to make conservation planning decisions with the limited data available. Respondents explained that this problem can best be resolved by getting the acceptance of plan participants to make decisions with the best available information. Respondents advised that planning efforts should at least use predictive models, pointing out that if a biological basis is lacking, then alternative reserve designs have no baseline to which they can objectively be compared. Once consultants assembled the best available data, they used modeling to draw some conclusions and map their results.

Partnership with other government agencies, such as the US Army Corps of Engineers (USACE), was suggested as a data acquisition strategy. For example, sophisticated USACE hydrologic models being prepared for Special Area Management Plans are being incorporated into some NCCP/HCP habitat models. The respondent who mentioned this strategy felt that such collaborations had great potential to aid NCCP/HCP planning efforts.

Riverside County has proposed a strategy for permitting take before completing baseline studies for the MSHCP, which does not have the support of all observers. Faced with a lack of information about the species for which they want take authorization, the county is proposing to include a large-scale baseline data collection component in its implementation and monitoring program *after* getting coverage for the species.

The strategy used in MSCP was to set baseline priorities for reserve design based solely on biological information. Priority areas were identified as “core areas” and “linkages” and served as the baseline for negotiation. According to the MSCP lead biological consultant, the baseline only identified the core areas and was not intended as the minimum necessary reserve area. Their strategy was to determine the baseline priorities, then identify relevant political and economic factors and analyze how they would influence the conservation value of the reserve. Critics representing several environmental groups interpreted the consultant’s baseline as a true bottom line and expressed frustration that consultants had to watch powerlessly as this baseline was whittled down and compromised by political and economic interests. These observers perceive the resulting plan as containing “phony” corridors and habitat reserves. With the notable exception of these environmentalists, the strategy to identify a biologically-determined baseline as a starting point for negotiations was perceived as successful by most interviewees.

Understand the Challenge of Compromise

Consultants were challenged by their responsibility to develop a balanced plan that was politically acceptable and biologically defensible. Interviewees noted that the public wanted biological, not legal, justification for why decisions were made to protect certain lands and not others. Conservationists agreed that it was challenging to come up with a reserve design that allowed loss of species but was still biologically-based and defensibly adequate for species protection. Respondents believed that these challenges can be successfully met by participants agreeing to compromise, and then implementing adaptive management and monitoring programs to see if the assumptions made in designing the conservation plan were correct. Many interviewees described conservation planning as more a social science than a true science. Because conclusions and opinions were based, in most cases, on insufficient data, they explained, it would be incorrect to claim that everything was scientific and science-based. One consultant described the conservation planning process as a stool balanced on three legs: biology, economics and politics. In his experience, conservation planning involves a team of consultants working together to make that stool stable.

Defend Conclusions with Scientific Integrity

Scientific integrity and technical expertise were listed as characteristics of effective biological consultants by all interviewees. Responses revealed that successful consultants engendered trust and maintained credibility among all groups (regulatory agencies, the applicant, environmentalists and developers) by being objective, having excellent technical expertise, providing fair analysis, displaying scientific integrity and maintaining phenomenal patience. Interviewees emphasized that consultants must take great care to ensure that the information they present is accurate, as their data and results will likely be challenged by special interest groups.

Legitimate arguments over scientific conclusions sometimes led to serious problems in negotiating NCCP/HCPs. As an example, independent scientists disagreed over the habitat requirements of the Quino Checkerspot butterfly, making it difficult and frustrating for consultants and San Diego North County MSCP subarea Working Group members to determine appropriate mitigation.

One strategy, highly praised by interviewees, sought to address the problem of expert disagreement by sending data directly to independent experts for peer review throughout the NCCP/HCP development process. Supporters pointed out that this continuous review can help avoid potential “train wrecks” over scientific disagreements and can improve the science of the plan through ongoing communication with independent advisors.

Consult with Wildlife Agencies

Many respondents stressed the need for a good working relationship between consultants and the wildlife agencies. Representatives from applicant jurisdictions commented that it is important to hire consultants who are respected by the agencies so that the agencies will respect the plan. CDFG staff agreed and explained that trust between the wildlife agencies and the consulting firm can expedite plan development and review.

Securing the time and attention of the wildlife agencies was frequently mentioned by wildlife agency staff and city planners as a challenge for technical consultants. CDFG employees explained that getting legal definitions or help from the wildlife agencies was time-consuming because staff were often not available or able to get back to consultants in a timely manner. Agency staff admitted that turn-around time for review by wildlife agencies on all plan components slowed things down. Despite the time delay, agency staff consistently expressed the belief that it is more efficient for consultants to make the time investment to consult with the wildlife agencies during plan development rather than trying to coordinate changes at the end of the planning process.

To address the challenge of slow agency response times, respondents suggested that consultants should develop a positive, proactive working relationship with the wildlife agencies. Experienced applicants and agency staff found it effective for consultants to have a good rapport with the agencies and understand where the agencies are coming from, but to also be assertive about getting the plan through. One agency representative described an effective consultant as someone who, while not always in agreement with the wildlife agencies, is able to make suggestions very diplomatically and never come across as being in opposition with the agencies simply on principle. Other agency representatives commented that the relationship between the consultants and the wildlife agencies must be characterized by communication, honesty and openness. Several agency employees observed that when the agencies asked the consultants to change something in the plan, and the consultants failed to make the changes, it led the agencies to wonder if the consultants even listened to the agency's request. One agency respondent advised consultants to avoid mistrust and misunderstandings over this kind of issue by letting the wildlife agencies know why their comments were not addressed.

Another strategy used by consultants to get quick resolution was to turn biological issues into policy issues. Observers noted that, especially toward the end of the planning process, when consultants were under pressure to finish the plan and did not have time to work more closely with the wildlife agencies or analyze complex issues and solve things on a biological level, the consultants turned a lot of difficult decisions into policy issues. Rather than resolve issues with the wildlife agencies at the staff level, which could be time consuming, resolution was elevated within the wildlife agencies. Although this strategy may have been efficient in the short-run, environmental groups and the public wanted biological justifications for decisions, and opposed some decisions which they felt were not biologically-based. This strategy also led to problems within the wildlife

agencies, as lower level staff felt disenfranchised when their biological recommendations were overturned by policy decisions made by higher-level agency staff.

Develop Alternative Reserve Designs

Interviewees found it effective to have consultants develop alternative reserve designs as a starting point for discussion. The consultants to the MSCP presented four alternative reserve designs, and explained the pros and cons of each. For example, the public lands alternative only covered 14 species and was deemed insufficient by the Working Group, which wanted greater species coverage. There was also a coastal sage scrub alternative, a biologically preferred alternative, and a multiple habitats alternative. The latter resulted in more land preservation than the biologically preferred alternative, but was not feasible. Consultants provided an overlay of land use which revealed that this was an unrealistic reserve design since much of the proposed reserve lands were already approved for development.

All respondents agreed that consultants help to keep the process rolling when they give the steering committee options to discuss instead of just offering a single product or waiting for the parties to tell them what to do on everything. Respondents believed that steering committees are much better at reacting to suggestions than creating reserve scenarios from scratch. And as one agency representative explained, by offering alternatives and not showing bias towards a particular outcome, consultants can avoid being perceived as unfairly influenced by the interests of any one group.

One respondent cautioned that the successful strategy of consultants presenting alternatives for discussion is expensive. In his view, the processes used in southern California were part of a learning process and were flexible because consultants were able to work on a time and materials basis. He believed that the provision of multiple alternatives was appropriate at the time because NCCP/HCPs were new, but was concerned that consultants working on a fixed budget will not necessarily have the time to roll out alternatives for discussion.

Provide Recommendations

Responses to interview questions indicated that the role of consultants in terms of providing recommendations differed among plans. One plan participant expressed a desire for guidance from the consultants in the form of recommendations, proposed strategies, and the pros and cons of adopting these strategies. Participants in other plans expressed satisfaction with consultants for taking the responsibility of providing objective recommendations based on science and offering guidance to the applicant and steering committee on how to proceed with plan designs. Consultants and applicants noted that consultants took on the responsibility of explaining to applicants what needed to be included in a plan, legally and biologically, to obtain a permit. Several respondents added that, in addition to providing recommendations on design strategy, exceptional consultants were able to anticipate future needs and communicate these needs to their clients.

MSCP consultants mostly received praise from applicants, developers, environmentalists and wildlife agency personnel for being honest and assertive with their client when defending their scientific conclusions. Some agency staff and environmentalists expressed concern that consultants were not always free to voice personal and scientific opinions that might not have supported their client's agenda. Some environmental respondents believed that recommendations offered by consultants were unfairly weighted by the motivations and goals of the development community. These concerns always related back to the fact that the consultants were paid by the applicant. Land development representatives emphasized, however, that consultants must stick to their science, even when it requires giving answers that don't necessarily make everyone happy. One building industry representative added that consultants need to educate and convince their clients that certain plan components are not biologically negotiable.

Consultants contended that the strategy of advocating for strong biological requirements based on objective science was only effective with the support of the wildlife agencies. Consultants could encourage the applicant to meet high biological standards by discussing the legal defensibility of their permits if they made biologically-based decisions. This strategy worked well if the wildlife agencies supported the biological justifications recommended by the consultants. Consultants noted that sometimes, although local wildlife agency staff agreed with their recommendations, decisions from agency management could be more political than biological.

Once the consultants presented their recommendations, their role in proposing alternatives ended and the steering committee made decisions. For example, consultants explained that while their technical information was useful, their recommendations were not necessarily followed. Biological consultants presented design alternatives based on scientific information, and then the steering committee decided on a design by balancing biology, economics, and politics. One wildlife agency representative offered praise for the applicants in the MSCP, who in his view were exceptional at following the consultants' advice rather than just telling the consultants what to do.

Present Useful Information

The most common response regarding presentation of technical information by consultants was that they need to present information in layperson terms so that people outside of their discipline can understand the material. Plan participants valued consultants with the ability to present complex information in a simple way. Consultants explained that this was important because it was their job to make sure that plan participants were educated about plan-specific biology, regulations, and financing strategies and could understand what they were agreeing to, what the regulations required, and why certain areas needed to be prioritized for conservation. Interviewees stressed that consultants must maintain neutrality when presenting information. Plan participants also commented that they greatly appreciated graphic presentations, especially GIS maps with overlays, which helped them visualize what was being discussed.

Interviewees currently developing NCCP/HCPs expressed a desire for consultants to share information about other plans, including strategies used to address issues such as appropriate mitigation.

Get it in Writing

Interviewees all agreed that consultants can play a valuable role in making the decision-making process transparent by documenting how decisions are made. Thorough documentation was noted as crucial to addressing the problem of institutional memory loss. Respondents explained that litigation problems have resulted not from the black and white issues, but from the gray areas. Participants involved in lawsuits recommended that future plan efforts provide for thorough documentation of how all decisions were made.

One method successfully used to document decision-making of the MSCP Working Group in San Diego was to have consultants write issue papers. The Working Group discussed topics, and then the consultants wrote up papers explaining the issues discussed. These issues included assurances, mitigation ratios, and the interface of the NCCP/HCP with associated General Plans.

Possession of good writing skills was frequently mentioned as an important characteristic of effective consultants. One commenter noted that some consulting firms have excellent technical expertise, but lack good writers who can simplify information and use a clear, concise writing format. Although this problem could be solved by editing prior to document submission, consultants expressed frustration that they sometimes received editorial comments rather than substantive review of documents submitted to the wildlife agencies.

Administrative/ Organizational Consultants

Advise on Process

Consultants beginning or considering new NCCP/HCPs noted that their clients often turn to them for advice about what an NCCP/HCP involves, if it is feasible in their area, and if it will provide a net benefit to the applicant. Interviewed wildlife agency representatives expressed concern over inexperienced consultants filling the information gap between the applicant and the wildlife agencies who administer the NCCP/HCP permitting process. One consultant commented that, since there is so much turn-over in agency staff, consultants are often the only ones with the long-term history and knowledge necessary to help clients understand the process and how the pieces fit together. Other observers pointed out, however, that even experienced consultants may look to old plans to identify issues and how they were resolved without noting the sequence of these plans to see how solutions were improved upon in more recent plans. Wildlife agency representatives

encouraged applicants to consult CDFG and USFWS directly to discuss the option of undertaking an NCCP/HCP effort.

Set Schedules

Interviewees had different suggestions regarding how to set and administer the schedule for NCCP/HCP efforts. One applicant recommended that consultants always maintain a 12-month schedule that includes the whole NCCP/HCP process, from start to finish, keeping things on a tight schedule. Most people interviewed felt that schedules should be set more realistically, and emphasized that plan participants should be aware that the NCCP/HCP development process is time-consuming. Experienced participants advised new consultants to take the time at the beginning of the process, rather than at the end, to talk to other people who have been through the process in order to get a realistic idea of how much time it will take. Agency staff noted that inappropriate time-lines based on unrealistic expectations on the part of jurisdictions and consultants caused people to complain that the wildlife agencies were stalling the plan while agency staff were trying to gather the information they needed. One agency representative recommended that schedules ought to be based on the amount of work that needs to be done, rather than being set to meet a date by which the applicant wants to get a product out. Several consultants argued that setting a schedule involves a balancing act between keeping the process flexible and taking so much time that momentum is lost. They recommended that consultants set incremental deadlines for products or 6 month time periods. Some consultants advised against setting a detailed schedule for the entire plan at the start, noting that minutely detailed schedules can look too complex and confusing to be helpful.

Budget

Consultants experienced in NCCP/HCP development suggested strategies for budgeting while noting that setting a budget is a challenge, since the project is always evolving. One consultant recommended starting with a limited, optimistic budget but being prepared for numerous budget and contract amendments. He felt that this strategy works because it forces consultants to justify their budget and it avoids sticker shock on the part of the client. An agency representative advised consultants to not underbid, explaining that consultants need to be realistic about how much plan preparation will cost so that the applicant can budget for the costs and seek funding.

There was no agreement over which contract type was preferred: fixed fee, or time and materials. A number of respondents believed that NCCP/HCPs were not the kind of plans that could be done on a fixed fee basis, because it took unpredictable amounts of time for participants to negotiate agreements. On the other hand, respondents working on newer plans noted that financial constraints may force applicants to use a fixed fee approach. One plan administrator successfully used both kinds of contracts; fixed fee contracts were developed for tasks with known requirements, and time and materials contracts were used for new endeavors with unclear parameters.

Organize Meetings

Interviewees greatly appreciated the role of organizational consultants in arranging meetings and preparing background materials for participants. Respondents explained that because of the large scale of these plans and the many participants involved, consultants played an important role in getting the participants sensitized to the issues. This approach helped focus the group on issues of concern to local stakeholders, and as the plan progressed, helped the consultants know who should be invited to which meetings to make the best use of people's time. One applicant commented that their lead consultant was highly effective in coordinating both a retreat and a summit that brought together high-level staff to resolve issues that were not getting resolved at lower levels.

Manage Consultant Team

Lead consultants were seen as the key to maintaining communication and coordination between the parties involved in plan development. Respondents generally cautioned that consultants bidding to work on NCCP/HCPs need to understand what Herculean efforts these plans involve, with organizational skills critical on all fronts. Interviewees explained that the consultants must make sure that everyone understands where the plan is going at all times, because the results will affect everyone. Observers noted that updates by consultants will become more lengthy and technical as a plan progresses. Respondents agreed that it is a good idea to hire a consultant with experience in complex conservation planning to be responsible for coordinating the NCCP/HCP effort. Several respondents noted that while some applicant jurisdictions may have in-house staff that could fill this role, cities and counties often underestimate the effort required by this job.

Respondents believed that the relationship between the lead consultant and the applicant must be clearly defined in order for the lead consultant to be effective. The primary consultant to the Central-Coastal Orange County NCCP/HCP hired subcontractors, but because the County distanced itself from the process, it was unclear to observers who was working for whom. In the San Diego MSCP, the team of consultants was led by a single consultant who clearly and effectively maintained the lead. A representative from the jurisdictions explained that when the work of the consultants did not appear to be meeting their needs, the lead consultant was critical to making sure that adjustments in roles and products could be made.

Effective lead consultants were described as having good project management skills, a broad education, and an ability to understand many disciplines, including biology, land use planning, and environmental law, so that they could provide useful advice.

Coordinate Plan Development

Effective coordination by the consultants involved maintaining progress, motivation and communication among plan participants. Respondents described effective coordinators as goal- and time-oriented, good at working to move things forward politically, able to

keep people motivated, and adept at dealing with adversarial working relationships between participants.

Troubleshoot

Consultants were seen as highly effective when they were able to identify issues that needed to be addressed, and then provide the resources to help bring the issues to resolution. One agency respondent recommended that junior consultants and their managers should detect issues on which junior staff are stuck, and reward junior staff for proactively identifying these issues. He explained that the role of the consultant is to then prepare a briefing on the dilemmas/issues, possibly come up with alternatives, and let the decision-makers decide what to do. Interviewees praised consultants in the MSCP for identifying and prioritizing the key issues that needed to be addressed.

One consultant warns that participants should not assume that troubleshooting by experienced consultants will make the NCCP/HCP process fast and easy. Consultants have to go through the same costly, time-consuming educational process in each new plan to get the applicants comfortable with the decisions they are making.

Outreach Consultants

Hire Outreach Specialists

All interest groups need to be kept informed throughout the NCCP/HCP process, said respondents, and consultants can assist in this education process. Respondents felt that outreach to let people know what is happening in their area is crucial in order to maintain good public relations. All interviewees agreed that outreach efforts should be better funded and staffed with specialists. Lack of funding was primarily blamed for the limited outreach of southern California NCCP/HCP efforts. Agency staff and consultants noted that the applicant and agencies do not have the staff or the expertise to do effective outreach. One agency representative recommended that applicants build a public outreach component into the consultant's Scope of Work to ensure that outreach is incorporated into future planning efforts. Technical consultants recommended that outreach to the general public should be done by specialists who know how to package the outreach. Consultants felt that glossy brochures were good tools for advertising NCCP/HCPs, but that TV time was also needed.

Educate Early

Interviewees stressed the importance of early, proactive outreach to establishing a successful NCCP/HCP. In the view of one consultant, NCCP/HCP efforts can be either proactive, involving the general public by advertising and promoting the plan, or reactive, only involving stakeholders who will get involved anyway. Respondents generally commented that they would like to see more proactive outreach efforts associated with

NCCP/HCPs. In the MSCP, consultants were involved in educating people beyond the Working Group, through technical presentations at public meetings. MSCP Working Group participants offered the advice to individuals involved in new planning efforts that they should do outreach early to ensure that everyone who wants to be included is given the opportunity to participate up-front.

Raise Public Support

According to respondents, outreach efforts must raise public support to ensure that plans are completed and funded. Several agency personnel noted that while the public is used to long-term planning for transportation and housing infrastructure (General Plans), people are not yet used to long-term plans for biological resources (NCCP/HCPs). If protection of open space is thought of as another type of community infrastructure, they explained, it becomes more mainstream to planners and elected officials. Respondents commented that NCCP/HCPs in urban interface areas were well received by the public and elected officials when presented as a means to protect their quality of life. Several consultants advised that outreach specialists need to keep proposed plans in the public eye to maintain the interest and support of elected officials in pushing the plans forward and maintaining funding. Interviewees emphasized that funding long-term reserve management and monitoring is a huge challenge, and recommended strong public outreach efforts to foster support for financing strategies.

Integrate Public Feedback

Outreach should include both educating and listening, said respondents. One environmental representative explained that public engagement should be a two-way interaction; public values should be integrated into draft plans and the public given multiple opportunities for evaluation. While the public may not reach consensus, he believed that public input provides a range of values for consultants and the steering committee to work with when designing the plan. He recommended that consultants include a budget for public engagement in order to ensure that they can obtain and utilize public input.

Continue Outreach and Education

Outreach and education efforts cannot end with the signing of the Implementing Agreement, said participants who worked on completed plans. MSCP participants noted that there is still skepticism about the plan because of turn-over in people involved and lack of on-going education; individuals who are new to the process may prefer project-by-project mitigation because they do not understand and trust the NCCP/HCP process. One participant believed that future efforts might be able to avoid legal challenges by providing on-going education to keep the NCCP/HCP process transparent and to reinforce why it is important.

Facilitative Consultants

Be Objective

Objectivity was the most commonly listed characteristic defining an effective facilitator. In order for facilitators to be effective, the group must trust them to be fair and impartial, said plan participants. When a facilitator tried to push stakeholders in a direction they did not want to go, it tended to alienate participants and was perceived as insulting to the participants who donated their time to come to meetings. Facilitators were considered successful when seen as neutral advocates for the plan.

All interviewees expressed the need for facilitative consultants to be independent from consultants holding technical roles. Based on personal experience, technical consultants found that they could not have a facilitative role and maintain their scientific objectivity. These consultants believed that it could work to have the same consulting firm providing technical and facilitative expertise, but that the same individual should not juggle both responsibilities. One respondent recommended that the two positions be coordinated through two separate contracts. In addition to eliminating the problem of scientists trying to advocate for their positions while facilitating, this would lead to a more complete documentation of plan development because each contract holder would assemble an independent administrative record.

Participants varied in their responses regarding whether or not facilitators should be independent of political influences. Observers thought that facilitators who knew the political players and had good working relationships with these individuals were effective. At the same time, respondents warned against facilitators having close relationships with the local government or the applicant. Facilitators who had financial or personal ties to decision-makers were seen as inappropriate. Some participants felt excluded by such connections, and saw the facilitator as biased in dealings with the different interest groups. Respondents cautioned that consultants who are hired by landowners to be dealmakers should not try to be facilitators, since facilitators need to be unbiased both in fact and in perception.

Know the Issues

Consultants and agency personnel alike agreed that the facilitator must have a good understanding of the NCCP/HCP process and local issues, and warned against hiring a professional who has facilitation skills but is not familiar with the conservation planning process. Interviewees stressed that an effective NCCP/HCP facilitator must be a good “people person” with an understanding of the local social and political milieu.

Ensure Plan Progress

Facilitative consultants can aid the process by ensuring that the decision-making process is clearly defined, said participants in completed and on-going NCCP/HCPs. The role of

the facilitative consultant should be to support and guide the NCCP/HCP process, rather than to be the decision-maker.

One suggestion on how the facilitator can guide the decision-making process was to have the steering committee agree in advance on common goals for the outcome of the plan. Goals could include working toward species recovery, providing for coverage of agricultural activities, getting buy-in from business and environmental interests, and putting together an economically viable plan.

Facilitators were seen as effective in promoting the decision-making process by taking the responsibility to identify potential and realized conflicts, to seek out decision-makers with authority, and to provide the information these people needed to resolve issues. Respondents noted that facilitators should consult with leadership from all parties to help determine what kind of issues and questions might arise during negotiations. An MSCP participant advised that once these questions have been identified, consultants can provide mechanisms to simplify the questions being asked and the way that complex data are presented. One long-time NCCP/HCP participant believed that clarification of the negotiation process must address how to integrate stakeholders into decision-making.

Interviewees emphasized that the best facilitators used techniques to promote efficient decision-making and did not allow plan participants to get stuck on difficult issues. Early dialogue regarding science and the species list was seen as helpful in making the process more efficient. Good facilitators were described as maintaining their eye on the goal of completing the plan. When faced with a problem, these facilitators would step back and use flexibility and ingenuity to figure out a way around the problem. Representatives of all interest groups warned that problems that were put off either because the consultants did not have enough information, or the steering committee couldn't reach an agreement, have come back to haunt completed NCCP/HCP efforts in the implementation stage.

Several strategies were suggested as methods to solve problems. One facilitative consultant used the "research agenda" to push the steering committee to agreement over issues. As an example, when the size of conservation reserves needed to be determined, the consultant stimulated group discussion of this larger issue by addressing the minimum acreage necessary for the biology of specific species. Another consultant advocated the use of "progressive disclosure" to get plan participants to be open and trustworthy in decision-making negotiations. Progressive disclosure refers to keeping information simple at the beginning of the process and not trying to tackle too much initially. This consultant recommended an initial focus on preserving habitat based on recommendations from the science advisors (such as preserving large blocks of habitat, minimizing edge effects and including habitat gradients), then allowing the species list to grow as participants begin to understand the relationship between areas included in potential reserve designs and what species will get coverage based on the habitats being preserved.

Different options were suggested for dealing with roadblock situations when the steering committee could not reach a decision. Several consultants believed that consultants

should assume an outcome in such situations, and then allow the group to amend their decision later. They acknowledged that this is an inefficient strategy, but felt that it is sometimes necessary to keep the process moving forward. Some consultants and agency officials commented that consultants are not as effective as politicians in facilitating decision-making over tough issues, since political will, not technical information, keeps the NCCP/HCP process moving. These observers felt that it was most effective for consultants and staff to take issues to politicians for a decision when the steering committee could not come to consensus. Other respondents contended that the different priorities among elected officials made this approach difficult. One solution used in several plans was to ask an independent group to conduct a feasibility study to determine if it was realistic to seek a solution to specific issues. For example, a non-profit organization was asked to assess whether funding of the plan could be realistically accomplished. The task was accomplished by assembling a panel of business interests to address the issue.

Facilitate Group Consensus

Facilitators who kept the group on task and pushed issues to solution were seen as highly effective. Without strong facilitation, warned respondents, meetings could result in chaos or lengthy speeches by people staking out their positions. Commenters clarified that facilitators were useful at meetings involving multiple stakeholders, but would not have been appreciated at individual stakeholder group meetings, where participants wanted to have unfettered discussions among themselves until reaching consensus and bringing a decision back to the group.

Interviewees emphasized that facilitation of NCCP/HCPs was a challenge since participation is voluntary; keeping participants at the table was key. Observers noted that the negotiation process worked best when stakeholders perceived that the process was fair, their concerns were heard, compromises were made on both sides, participants came to the table with a collaborative attitude, and trust was built. Without these features, warned respondents, some participants may withdraw and seek resolution through the courts. One commenter suggested that facilitators can keep people on board by convincing them that it is in their best interest to stay involved. To keep environmentalists involved, for example, consultants can explain that negotiating from a collaborative position is more likely to result in significant conservation than will protracted confrontation. To keep builders involved, consultants can explain that negotiating an NCCP/HCP is to the builders' advantage because it can avoid lawsuits from the environmental community.

According to interviewees, consultants can make negotiations for a plan much more efficient by using techniques that facilitate win-win solutions. The facilitation technique consistently cited as successful was having the group focus on solutions to balance conservation with development. Consultants often suggested creative alternatives that helped the group reach a solution agreeable to everyone.

Environmental representatives, wildlife agency staff and attorneys noted that the negotiation process could be improved by all participants becoming skilled in

collaborative problem-solving. One environmentalist was especially concerned that environmental representatives were not good at negotiating their positions, while business representatives seemed well trained in negotiation tactics. Participants should be encouraged to seek out negotiation training.

Many interviewees advocated that steering committees should make decisions by consensus to assure long term commitment to plan outcome. Facilitative consultants were seen as valuable players with the ability to help build consensus. One strategy for consensus building was to break the steering committee into subcommittees tasked with developing consensus on specific issues. Although formation of issue-based subcommittees was seen as a successful technique, participants recommended against breaking up the steering committee into separate modules of interest groups with consultants moderating negotiations between these groups. Separation of interest groups did not allow for sufficient communication to enable cooperation and consensus building. Participants generally liked the strategy of using consensus for decision-making, and only resorting to elevating issues to higher levels when consensus could not be reached. Concerns were raised by both environmentalists and business interests about the fairness of some of the decisions made by authorities. Consultants were only as effective as the group's commitment to consensus, observed one respondent.

One specific challenge to consensus was the presence of individuals who wanted to disrupt the NCCP/HCP development process. Facilitators addressed this issue by either marginalizing uncooperative individuals and discounting their concerns, or by incorporating them into the formal steering committee and gaining their cooperation. Facilitators dealing with this issue found it most effective to try to include uncooperative individuals, and if cooperation could not be realized, to simply listen to the concerns of these individuals before moving on with negotiations. Observers noted that even if facilitators got these individuals to agree to the plan, the groups represented by these individuals sometimes continued to oppose the plan. While there was an understanding that facilitators cannot force consensus, participants felt that all efforts should be directed at obtaining consensus to reduce the risk of potential lawsuits.

Consensus was seen as highly effective in moving plans forward by promoting political support, funding, and motivation to complete the plan. By bringing the MSCP Working Group to consensus, consultants made it comfortable for elected officials to approve the plan. Consensus also helped efforts to obtain funding from the federal government. When unified coalitions of environmental, business, city and county representatives traveled to Washington, D.C. to ask for funding, they received strong federal support. Participants in the MSCP Working Group felt that once the process of consensus began, it developed an energy of its own, leading to a commitment to find solutions and a strong team spirit.

Have patience

All respondents agreed that consultants facilitating NCCP/HCP negotiations required extreme patience. Facilitators needed to take the time to establish trust and cooperation

before the group could start reaching consensus in negotiations. Consultants who became impatient and confrontational were no longer effective facilitators because they lost the trust of participants. Interviewees praised effective facilitators for their ability to keep people calm and to keep discussions focused.

Meet Informally with Participants

Effective facilitators were credited with understanding the political sensitivities of the local jurisdictions, knowing most of the representatives of the various interest groups, being adept at meeting outside the group with constituents to determine their needs, and bringing this information back to the group. Participants in MSCP felt that it was highly effective for small groups of five or six people to meet outside formal working group meetings to come up with a basis for agreement, then to bring their agreement to the Working Group for discussion. In addition to forging agreements, these informal meetings were seen as effective tools for fostering professional relationships that helped break down stereotypes and barriers to cooperation. Informal relationships were also seen as positive for allowing participants to work together outside of the political influences and formality of steering committee meetings. Unofficial, ad hoc meetings between all combinations of participants – wildlife agencies, consultants, environmentalists, developers, city, and county staff – were encouraged by interviewees.

Engage Wildlife Agency Decision-Makers

Respondents believed that a combination of support from high-level wildlife agency staff and local officials was critical to setting the tone of negotiations, enabling tough political decisions to be made, and providing direction to planning efforts.

Consultants noted that working closely with local wildlife agency staff was often not adequate; someone at the regional or state level ultimately made many of the important decisions. A number of respondents recommended that consultants engage regional agency staff who will weigh in on decisions relatively early in the process so that these decision-makers understand the local concerns. Participants felt that it was an effective strategy for facilitative consultants to maintain contact with high level agency staff, asking these state and federal staff members to attend specific meetings only when necessary. A number of plan participants felt that it was effective for facilitators to go directly to state or federal agency personnel for decisions, skipping over local and regional wildlife agency staff. Not surprisingly, local and regional agency staff expressed frustration with this arrangement, although concerns focused on the lack of support from their superiors rather than the methods used by consultants.

Involve Local Political Leadership

Respondents from all groups and on all plans clearly emphasized that local elected officials must drive the NCCP/HCP planning process. Experienced participants advised consultants new to the process to get a commitment for engagement and strong support from elected officials early in the process. Local elected officials were seen as the

necessary leaders and “champions” of the NCCP/HCP development process. Interviewees noted that neither consultants nor high-level agency personnel were able to rally the requisite local support for plans without the backing of local political leaders. Only political leadership was seen as capable of getting planning efforts off the ground, keeping stakeholders engaged and present at meetings, and supporting the efforts of consultants to keep the process moving within set timeframes. As one facilitative consultant explained, when an elected official is pushing the planning effort, people know it is going somewhere.

Financing the Consultants

The source of funding and vehicles for financing the consultants strongly affected their perceived role. Interviewees believed that the collaborative nature of NCCP/HCP development was enhanced when consultants working on the plan were not biased by the interests of their client, even though they were paid by the client. Wildlife agency representatives at all levels advised that the applicant should hire the consultants, rather than allowing landowners to hire the consultants to work on the plan. The environmentalists interviewed expressed strong concerns about the objectivity of consultants funded by landowners, and some recommended that the wildlife agencies mandate that consultants may only be paid by a public interest. Other environmentalists believed that consultants working for any applicant (including a public jurisdiction) can be easily subject to bias, and suggested that consultant fees should be distributed through the wildlife agencies to ensure consultant objectivity. In one plan, participants formed a subcommittee to address the issue of equity in distributing plan costs, including the cost of hiring consultants.

Financing of consultants was seen as a challenge by many interviewees participating in relatively new NCCP/HCP efforts. The contract for MSCP consultants was around \$1 million, and Riverside County spent over \$30 million developing all three components in its Integrated Plan. Applicants in northern California expressed concern that they would not be able to fund such expensive conservation planning projects. Technical and legal consultants in northern California explained that most local jurisdictions have to fund NCCP/HCPs themselves without the same level of support from the state and the federal government seen in southern California. These budget concerns have made local jurisdictions in northern California much more sensitive and protective of their role in leading the NCCP/HCP process. One respondent explained that local jurisdictions may prefer to prepare 2081 permits/HCPs due to concerns that the wildlife agencies will request additional tasks for NCCP/HCPs, causing consulting budget increases. A 2081 permit/HCP is typically smaller in scope, covers fewer species and habitats, does not require a Planning Agreement, requires less public outreach and scientific input, but also means less benefits and protections for the applicants.

All interviewees acknowledged the high expense of funding the NCCP/HCP process and the challenge of obtaining financial resources. Southern California NCCP/HCP participants and agency representatives who were interviewed have found that funding for planning, including costs for consultants, has been available to many recently initiated

NCCP/HCP efforts. USFWS offers competitive grants to states for HCP planning and land acquisition through the Cooperative Endangered Species Conservation Fund/Section 6 Grants. Southern California jurisdictions found their strategy of submitting joint funding requests for state and federal conservation planning grants to be highly successful at providing for consulting services.

Relationship between Consultants and Independent Science Advisors

Agency representatives advised that the applicant and wildlife agencies should clearly define the relationship between consultants and independent science advisors to ensure that recommendations of the science advisory group are considered during plan development by the consultants. In NCCP/HCPs completed to date, science advisors were primarily involved in providing recommendations to inform the initial stages of plan development. They provided advice upfront on principles of conservation biology and design of habitat models, but they were not consulted during subsequent stages of planning. Interviewees from all groups expressed enthusiasm for iterative scientific input being incorporated by the San Diego North County MSCP Subarea Plan. In that plan, the science advisors have been involved throughout plan development, reviewing the methodologies developed by the county and the consultants for assessing habitat sensitivities and for creating a reserve design.

Recommendations

The NCCP planning process has evolved into a complex and rewarding endeavor since its inception in 1991. Because we learn more about successful strategies with each planning effort, CDFG recommends that applicants communicate directly with the wildlife agencies before deciding to prepare an NCCP/HCP and throughout the planning process. CDFG is committed to improving the process, and thus sponsors program evaluations and guidance such as this to transmit those “lessons learned” to people new to NCCP planning. Guidance is available regarding successful strategies used by consultants, appropriate timing of tasks, interpretation of the NCCP Act, and other topics relevant to NCCP/HCP development. CDFG staff are available and receptive to requests to clarify or expand on the guidance available online at CDFG’s NCCP website (<http://www.dfg.ca.gov/nccp/>).

CDFG advocates the designation of a Lead Consultant to coordinate the efforts of other consultants working on the plan and to serve as the point of contact between the applicant and the consultant team.

Based on the results of this study, CDFG recommends that applicants seek to hire consultants who are:

- * Objective (neutral) in their analyses and conclusions
- * Regarded as having high standards of professional integrity
- * Honest
- * Respected and trusted by all plan participants
- * Forthright about scientific conclusions
- * Committed to the goal of completing a successful NCCP/HCP
- * Pragmatists with realistic expectations
- * Skilled in listening and communicating
- * Open minded and flexible
- * Able to maintain a professional manner under pressure
- * Knowledgeable about biology, economics, environmental law and policy, and local planning as they relate to NCCP/HCP development and implementation

CDFG advises consultants to educate themselves about NCCP/HCPs and the requirements of the NCCP Act before developing their scope of work and at each new phase of work. Information can be obtained through CDFG’s NCCP website, researching other plans, and attending professional workshops and conferences.

A team approach is recommended by CDFG. Plan consultants should not work in isolation, but should collaborate with the planning partnership throughout plan development. Consultants will be most successful if they are perceived as being respectful of this partnership. By being advocates for the plan rather than advocates for just their client, they will foster a fair and impartial, problem-solving atmosphere for plan development.

Index of Abbreviations

2081	CESA Section 2081
CDFG	California Department of Fish and Game
CESA	California Endangered Species Act
EIR	Environmental Impact Report
EIS	Environmental Impact Statement
FESA	Federal Endangered Species Act
GIS	Geographic Information System
HCP	Habitat Conservation Plan
MHCP	Multiple Habitat Conservation Plan
MSCP	Multiple Species Conservation Plan
MSHCP	Multi-Species Habitat Conservation Plan
NCCP	Natural Community Conservation Plan
NMFS	National Marine Fisheries Service
RCIP	Riverside County Integrated Project
USACE	U.S. Army Corps of Engineers
USFWS	U.S. Fish and Wildlife Service

Appendix

Assessing Information Needs: Interview Handout

- <5 min. **Introductions**
- 5 min. **Introduce project**
- 10 min. **NCCP experience**
- Could you briefly tell me about your experiences working on NCCPs?
- 20 min. **Preparation for NCCPs**
- As a (consultant, agency representative, stakeholder representative, etc.), did you have enough information about the NCCP process before you started?
 - If you could start the NCCP process over again from the beginning, what kinds of information or tips would have helped you in preparing for the process? (The process from responding to the RFP all the way to implementing the NCCP.)
 - If you had a little book of answers about the NCCP process, what tips or guidance would it contain to make the consultants' job easier?
- 15 min. **Further comments**
- Is there any other information that you would find useful that I might gather through this project?
- 5 min. **Questions for me**
- Do you have any questions that you would like to ask me? Do you have any additional suggestions that you would like to offer?
- < 5 min. **Maintaining contact**
- May I contact you in the future if I have questions that I feel you would be able to help answer?

Assessing Southern California Strategies: Interview Handout

Background questions

- Could you briefly tell me what role you play(ed) in the NCCP process?
- What roles did consultants play in the NCCP process?
- Were the roles of the consultants clearly defined?
- How did these roles evolve over time?
- Did you feel that the consultants were effective in the roles of: facilitator? technical support? etc.?
- What kinds of techniques or strategies did consultants use? Were these effective?
- Did the consultants working on the plan have specific professional characteristics that helped make the plan good and the process efficient?
- Who provided direction for the consultants working on the plan? Was this effective?
- What challenges did the consultants face working on the NCCP? How were those challenges met?

Future direction

- If you had a little book of answers about the NCCP process (from RFP to implementation), what tips or guidance would it contain to make the consultants' job easier?
- It is the Department's intent to make the results of this evaluation available to consultants, local governments, and other stakeholders as a tool to help them in the NCCP process. What form of conveying this information would be the most effective?

Wrap-up

- Is there any other information that consultants might find useful that I could gather through this project?
- Do you have any questions that you would like to ask me?
- Do you have any additional suggestions that you would like to offer?
- May I contact you in the future if I have questions that I feel you would be able to help answer?