

The Economics of Land Use



Executive Summary

Economic Effects of Regional Habitat Conservation Plans

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EXECUTIVE SUMMARY

This White Paper evaluates the hypothesis that regional Habitat Conservation Plans confer substantial economic benefits to the private and public sectors. The study draws conclusions on the economic effects of regional Habitat Conservation Plans through the lens of four different case studies in California, as well as the body of professional reports and academic papers that have examined similar questions. The case studies are in San Diego, Riverside, San Joaquin and Contra Costa Counties. Quantification of economic effects is provided for each case study, where possible, with case study results aggregated to provide illustrative estimates of the potential California-wide effects.¹

Background

In 1982, the federal Endangered Species Act (ESA)—which was adopted by Congress in 1973—was amended to provide a new tool intended to increase the efficiency of the Act. This tool, the Habitat Conservation Plan (HCP), grew out of conflict between economic development, private property rights, and endangered species habitat. The HCP program allowed for the “incidental take” of listed species, through the issuance of an Incidental Take Permit (ITP), in exchange for conserving the habitat of the affected species.

Initially a single-species program, HCPs in many regions of the United States have evolved to become “regional HCPs” that cover multiple species and habitats, often engaging numerous jurisdictions, landowners, and stakeholders. In 1991, the State of California adopted the Natural Communities Conservation Planning (NCCP) Act, which provided for the preparation of voluntary landscape-scale conservation plans. These comprehensive regional programs can replace project-by-project permitting.

Today, regional HCPs have been adopted or are being prepared in 22 counties across California, providing current and future endangered species incidental take permitting for over 1.6 million acres within a planning area of about 11.7 million acres.² Most of these regional HCPs are combined HCP/NCCPs, while some are simply HCPs.³



Benefits to the Business Community

Finding #1: Regional HCPs provide substantial benefits to the business community, providing millions of dollars in savings through reduced uncertainty, time delay, and compliance costs.

New development projects commonly confront substantial barriers when listed endangered or threatened species and their habitats are affected. Regional incidental take permits replace a project-by-project process fraught with uncertainties associated with timing, costs, and sometimes lawsuits. This provides substantial real economic benefit to landowners, developers, and other businesses.

Finding #2: The increased certainty provided by regional HCPs and HCP/NCCPs relative to the alternative case-by-case permitting process is arguably the most significant benefit to the business community.

Regional HCPs remove uncertainty associated with the presence of listed animal species, a major concern and barrier to investment in land development. Under a project-by-project process, in the absence of regional HCPs, substantial uncertainty is associated with the timeframe for receiving permits as well as species impact mitigation requirements and associated costs. Regional HCPs also insulate landowners from project-focused litigation.⁴ In addition, under regional HCPs, regulatory agencies provide valuable assurances to HCP-implementing entities regarding unforeseen circumstances and the treatment of covered species that are unlisted but become listed in the future.

Developers interviewed for the case studies noted that species-related uncertainty and the associated financial risk can be the difference between pursuing a project or instead making a “no go” decision. While economists have struggled to identify an appropriate method for quantifying the economic impact of uncertainty, there is little doubt among academic and professional economists as to its significance.

Finding #3: Time reductions associated with HCP permit processing for land development, typically between three months and three years, result in annual savings to California developers of about \$70 million.⁵

Regional HCPs provide a streamlined permitting process for endangered species impacts. Once adopted by local government, projects consistent with regional HCP standards are permitted under reduced timelines, providing a direct economic benefit to developers. The case studies in this report and prior economic evaluations show that reduced permitting delays are a key contribution of regional HCPs to the business community. Incidental take permitting under regional HCPs provides significant time savings, typically between three months and three years depending on project type and complexity.

The effect of a one-year reduction in permitting delay will reduce opportunity costs to developers by \$500,000 for an average 20-acre residential development project in California (\$15,000 per acre). In aggregate, a year of potential permitting under California Regional HCPs generates a private sector time value benefit of nearly \$70 million.

The opportunity costs of capital investment in land (the lost returns on not making alternative investments), and associated interest payments, taxes, and maintenance, can represent substantial sums of money for a proponent whose project is delayed. These losses/costs are avoided when species-related regulatory delays are eliminated by regional HCPs.

Finding #4: Reductions in direct regulatory compliance costs for private and public development projects are often achieved under regional HCPs, sometimes resulting in savings of over \$1 million for larger development projects.

Regional HCPs often reduce direct regulatory compliance costs relative to project-by-project permitting. Developer savings accrue in part from mitigation standards established with regional HCP adoption. These cost-savings benefits take the form of:

- (1) less on-site land dedication, which typically is more expensive than off-site habitat mitigation;
- (2) efficient, regional scale monitoring; and,
- (3) alternatives for endowing preserve management.

Project compliance cost savings (including mitigation cost savings) vary considerably across plans and projects. The case studies in this White Paper and the prior studies reviewed indicate a saving of between \$10,000 and \$40,000 per acre for medium and large private development projects in California.

In one case study example, the Aviano project in East Contra Costa County, individual compliance/mitigation costs are expected to be about \$6.9 million. If the project had been within the regional HCP/NCCP boundary, its cost would have been reduced to an estimated \$3.7 million.

Facilitation of Regional Infrastructure

Finding #5: Regional HCPs facilitate the development of regional infrastructure, accelerating the benefits of their completion and operation and reducing costs.

Infrastructure projects such as roads and water facilities support new growth and development and are often the driving force for the development of regional HCPs. They are often region-serving and require inter-jurisdictional efforts. HCPs in East Contra Costa County, Solano County, Santa Clara County, and Riverside County were all motivated in part by the need to

One measure of the economic cost from delayed regional infrastructure projects is the lost social benefit associated with project timing. Social discount rates reflect society's time preference for project development sooner rather than later. Applying a well-accepted range of social discount rates (3% to 7%) to 25 major Western Riverside County regional transportation infrastructure projects, that would have been delayed "but for" the regional HCP, reveals an avoided delay benefit of between \$126 million and \$278 million associated with the adoption of the regional HCP.

obtain ESA Incidental Take Permits for major infrastructure projects, which became “covered activities” under the plans.

Public Sector Efficiency Improvements

Finding #6: Regional HCPs significantly reduce the amount of time required for state and federal regulatory agency staff to review and negotiate individual take permits and outcomes.

Interviews with current and former state and federal agency staff managers indicate that an adopted regional HCP substantially reduces the amount of time required for project permitting, by staff at both the U.S. Fish & Wildlife Service (USFWS) and the California Department of Fish & Wildlife (CDFW).⁶ Some of the reduced demands on regulatory staff time will be shifted toward developing and implementing regional HCPs, though interviewees indicated that there is an overall reduction in ESA-related work attributable to plan adoption. General estimates of reduced demands on regulatory staff time associated with individual permitting of projects total nearly \$2 million statewide for both USFWS and CDFW.⁷

Regulators indicate that roughly 360 to 480 hours of staff time is required to provide an ESA permit for a project of moderate complexity. Aggregated across an estimate of annual development within the approved and in-process regional HCPs in California, the reduction in regulatory staff time required for permitting (if individual permitting kept up with demand for development) is estimated at between 14 to 19 full-time-equivalent jobs (for both USFWS as well as CDFW). This equates to a cost savings of about \$1.4 to \$1.9 million for USFWS (and likely a similar saving for CDFW).

Finding #7: Local jurisdictions as well as public agencies (e.g., water districts) benefit from adopted regional HCPs through a number of efficiencies and cost savings.

Similar to the benefits to the business community and to the facilitation of infrastructure described above, local jurisdictions (cities, counties, and special districts) benefit from the streamlined, well-defined permitting offered by regional HCPs. For example, libraries, municipal offices, emergency services facilities, and recreation spaces benefit from increased certainty and reduced delay. Participating Special Entities (e.g., public agencies like water districts as well as private entities like Southern California Edison and PG&E) reap similar benefits.

"The City of Desert Hot Springs needs new development, new investment in our community. With the Coachella Valley Multiple Species HCP, our city will know where development is approvable and where it is not. That will help us bring jobs to our community - pure and simple."

- Rick Daniels, City Manager, City of Desert Hot Springs

In addition, the adoption of regional HCPs allows for improved planning for population growth, development, and regional transportation at the city and county level. General Plans and Regional Transportation Plans, for example, can expeditiously address species and habitat considerations once the implications of endangered species have been determined and clarified by a regional HCP. For example, Riverside County's General Plan Update (and Community and Environmental Transportation Acceptability Process) benefitted from the clarity about future growth and development that is provided by the Western Riverside County HCP. And finally, the local control over permitting provided by adopted regional HCPs is seen by local officials and the development community as a benefit to the regulated community, since oversight by federal and state regulatory staff is no longer required on a project-by-project basis.

Opportunities for Improvement

Finding #8: The economic benefits from regional HCPs could be further enhanced by additional integration with other environmental and regulatory permitting processes.

Regional HCPs, as noted above, provide regulatory streamlining benefits with a combination of reduced uncertainty, permitting time, permitting costs. Regional HCPs also streamline the significant portion of the California's environmental review (CEQA) process that addresses biological impacts. Both the development community and local jurisdictions have pointed to the potential for enhanced benefits by moving further towards "one stop shopping" for other natural resource permits.⁸

In particular, for any area with significant wetlands, the business community and public agencies would benefit from the integration of Clean Water Act Section 404 permitting within regional HCPs. This integration has been achieved with the East Contra Costa County HCP/NCCP, a first-in-the-nation Section 404 Regional General Permit that is linked to an HCP. Integration of a larger number of regional HCPs with not only Section 404 but also state-level requirements for aquatic and wetland resources would shift permitting closer to "one stop shopping" and enhance the economic benefits of the plans.

Endnotes

¹ While the four case studies represent a limited sample size, they provide important insights into the economic effects of regional HCPs. The aggregation and application of case study results to statewide approved/in-progress regional HCPs also provide illustrative estimates of overall economic effects.

² From the publication "Accomplishments of Regional Habitat Conservation Plans and Natural Communities Conservation Plans", October 2013, prepared by the California Habitat Conservation Planning Coalition. Original source of information: Dr. Brenda Johnson, California Department of Fish & Wildlife.

³ Under Regional HCPs that are not HCP/NCCPs, developments address impacts on State listed species through the California Department of Fish & Wildlife Section 2081 permitting process.

⁴ The Biological Opinion issued for each regional HCP provides the legal rationale and defense for development projects consistent with the HCP permit standards.

⁵ It is important to note that there is debate concerning the ability of developers to integrate the delays in incidental take permitting into the numerous other potential regulatory and market timing delays that any development project can face. As illustrated in the case studies, the effects of delay will vary based on the point in the real estate cycle; in addition, more experienced developers will be better able to reduce the delay effects of take permitting without regional HCPs. This estimate assumes that delay matters in 50 percent of cases.

⁶ Interviewees included Cay Goode and Eric Tattersall, USFWS Sacramento Field Office, Karen Goebel, USFWS Carlsbad Field Office and Ron Rempel, formerly of California Department of Fish & Wildlife.

⁷ Ron Rempel, former Deputy Director of California Department of Fish & Wildlife, provided estimates of typical demands on staff time for State personnel; subsequent interview with USFWS staff indicated that these also represented reasonable estimates for the USFWS staff time.

⁸ For example, personal communication with Paul Campos, Senior Vice President and General Counsel, Building Industry Association Bay Area (February 2014).