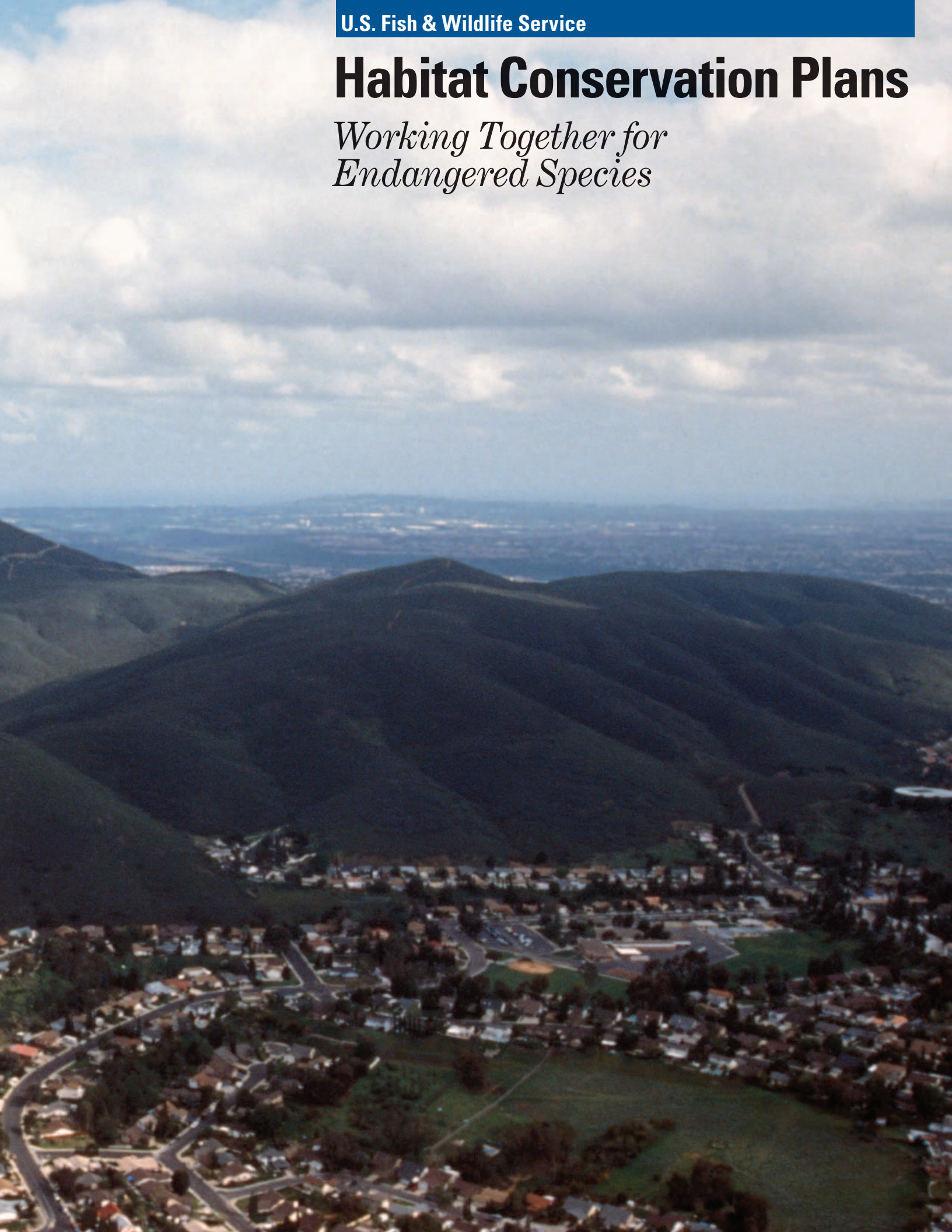


U.S. Fish & Wildlife Service

Habitat Conservation Plans

*Working Together for
Endangered Species*



“Open spaces protect our natural resources, limit urban sprawl, and truly enhance our quality of life. At the same time, we can take satisfaction in knowing that future generations will have opportunities to visit pristine preserve areas to enjoy and learn about precious wildlife. I am proud to be a part of the Multiple-Species Conservation Program.”

—San Diego County Supervisor Dianne Jacob

“The Multiple-Species Conservation Program is a landmark program. Partnerships among public and private stakeholders with diverse interests make it a national award-winning initiative.”

—San Diego County Supervisor Pam Slater-Price

On the cover: Aerial view of San Miguel Mountain and surrounding communities in San Diego County, California, showing urban development and open space. A key feature of the San Diego Multiple-Species Conservation Program is a system of natural “preserves.” USFWS photo

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Swan Valley, Montana: Plum Creek Timber Company property (see p. 14)

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A Message from the Director of the U.S. Fish and Wildlife Service

Who would have thought that three endangered species—including two butterflies—could launch a new way of looking at development and conservation?

That's what happened more than 20 years ago in California. Together, one county, three cities, and private landowners and developers made sure that builders could plan for 3,000 homes and that mission blue butterflies, San Bruno elfin butterflies, and San Francisco garter snakes wouldn't go extinct. While providing for construction in less sensitive areas, the plan set aside important habitat on San Bruno Mountain, including large portions that were privately owned.

Congress liked the partnership. It became a model for the nation. In 1982, Congress amended the Endangered Species Act to allow incidental take permits to be given to private landowners who establish "conservation plans." These permits give landowners certainty that they will not be liable if their otherwise lawful activities incidentally harm endangered or threatened species. Congress termed conservation plans "creative partnerships."

Under the new amendment, the San Bruno Mountain conservation plan, with a life of 30 years, received the first incidental take permit. Confident that their long-term projects were in keeping with the Act, people had incentives to participate in plans that could involve millions of dollars.

Today, individual homeowners, counties, states, and corporations have developed what have come to be known as Habitat Conservation Plans or "HCPs." Some are as small as a fraction of an acre, while others are larger than a million acres. Landowners are preparing HCPs in connection with building golf courses, harvesting timber, managing ranches, operating nurseries, producing gas and oil, and constructing businesses and utilities. And the open spaces created through the conservation planning process provide recreational opportunities including hunting, fishing, birding, and hiking. For example, in Georgia, a private landowner is restoring longleaf pine forests on his property under a statewide Habitat Conservation Plan for endangered red-cockaded woodpeckers. In the process, the habitat is improving for quail, a game species that his family enjoys hunting.

That's an important part of HCPs: stakeholders create them. People closest to the issues are making decisions for their communities well into the future. Now that green space has taken on a new emphasis, partners are setting aside natural areas as amenities—not just for wildlife, but for people. Working together, companies, business and recreational interest groups, tribes, and local, state, and federal agencies are crafting stewardship solutions that look decades ahead.



Todd Harless, USFWS

More than 400 HCPs are in effect from coast to coast. One executive observed that his company had grown after its HCP had been approved. Providing for the needs of people can be both economically profitable and environmentally responsible.

We hope that the following examples will encourage you to explore how Habitat Conservation Plans can work for you.

*Steve Williams, Director
U.S. Fish and Wildlife Service*

Overview

Habitat Conservation Plans under the Endangered Species Act provide a framework for people to complete projects while conserving at-risk species of plants and animals. Congress envisioned Habitat Conservation Plans as integrating development and land-use activities with conservation in a climate of cooperation.

The Endangered Species Act protects endangered and threatened species of wildlife and plants. Without a permit, it is unlawful to “take” listed wildlife species. That means that people may not harm the species or kill them, or attempt to do so.

The need for HCPs arises from the fact that listed species live wherever they find suitable habitat, without regard to who owns it. Before HCPs became a reality, people who were interested in developing private land that was home to endangered or threatened species risked breaking the law.

Congress recognized this dilemma and amended the Endangered Species Act to allow the Fish and Wildlife Service to issue incidental take permits to landowners who develop Habitat Conservation Plans. HCPs provide a framework for creative partnerships with the goal of reducing conflicts between listed species and economic development.



© Mr. and Mrs. Josiah Austin

“The beauty of the HCP is that it not only protects these incredibly unique fish but it ensures that the Austins can manage their land and water the way they need to. I think the HCP is working exactly as planned.”—Kirk Young, Chief, Native Fish Program, Arizona Game and Fish Department.

Benefits of Habitat Conservation Plans for Wildlife, Landowners, and Communities

Habitat Conservation Plans can help communities plan economic development while ensuring the future of endangered and threatened species. Through large-scale HCPs, stakeholders chart landscape-level strategies and conserve biological diversity.

By protecting habitat and preventing the decline of sensitive species, HCPs can help preclude the need for listings under the Endangered Species Act. Early conservation measures help maintain healthy ecosystems—valuable green-space that states and counties are increasingly seeking to protect—while they provide for new residents and businesses. For HCPs that cross jurisdictional boundaries, a regional approach streamlines the permit process—and saves time and money.



© John Rinne

The endangered Yaqui chub thrives on the Austins’ El Coronado ranch.

Finally, HCPs protect people from legal liability. In Arizona, ranchers developed an HCP to provide certainty that they could continue their cattle ranching activities, confident that they were consistent with the Endangered Species Act. As part of the HCP they constructed water structures for native fish and released endangered Yaqui chub and other at-risk species into ponds on their property.

The HCP facilitated a partnership with the Forest Service and the Arizona Department of Fish and Game. The ranchers had been stewards through the years—and still are. As a state biologist said, “The key element here is that private landowners had a conservation opportunity and the [incidental take] permit provided the insurance that they needed to continue their management activities for listed fish.”

The Challenges

By creating HCPs, Congress recognized that economic development can occur alongside endangered species conservation. The challenge is to make the process work—to ensure that development activities do not appreciably reduce

the likelihood of the survival and recovery of at-risk species. HCPs provide solutions that may prevent legal battles by changing litigation to collaboration.

HCPs bring together people who might not otherwise know one another but come to understand each other’s viewpoints. “It’s been a pretty good lesson for all of us,” one participant said. Among stakeholders nationwide are timber companies, plant conservation societies, mining interests, off-road vehicle enthusiasts, home builders, hunting and angling groups, ranchers, fisheries biologists, water quality specialists, county commissioners, a health-supplements company, university professors, and private citizens.



Stephanie Coleman, USFWS

Jim Brooks, U.S. Fish and Wildlife Service biologist, celebrates the release of Yaqui catfish on the Austins’ El Coronado ranch in southeast Arizona.



© Mr. and Mrs. Josiah Austin

This lush green area in arid Arizona is Turkey Creek, restored thanks to diversion dams and watershed management.

San Diego Multiple-Species Conservation Program: a 50-Year Plan for Growth

Home to 2.9 million residents, with a million more expected by 2020, San Diego County, California, is also home to diverse species of plants and animals. The combination of a fast-growing area and great biological diversity could have meant an unresolvable conflict between development and conservation. Instead, the combination resulted in planning for the long-term well-being of people, the economy, and the natural resources of southern California. Saving open space and connected ecosystems, stakeholders created the Multiple-Species Conservation Program, designed to promote economic growth and preserve biodiversity.

“Before the program, you basically got fragmented open space that wasn’t worth much from an ecological standpoint—and issuing

permits took too long. Now, habitat-wide, the program has demonstrated success, setting aside land that is the most ecologically important and building much-needed new homes in less sensitive areas,” said Craig Benedetto, Executive Director of the Alliance for Habitat

Conservation, an organization of county landowners. A key feature is a 172,000-acre interconnected preserve system that crosses many jurisdictional boundaries.

“The program brings area governments that have land-use authority into

“Ironically, listing the coastal California gnatcatcher as threatened provided an incentive to accelerate regional planning,” said Bill Tippets, California Department of Fish and Game.

the conservation-planning business,” said Dan Silver, Director of Policy and Programs of the Endangered Habitats League, a conservation group. “Coastal southern California has a depleted landscape, so the ability to put together a reserve system came along in the nick of time. By providing coverage for multiple species, the ecosystem approach avoids the listing-of-the-month. Not only that, but the open space being preserved has become a major community amenity with the benefit of making the region more economically competitive.”

A California Fish and Game Department biologist noted that the planning process puts biology on the level of issues such as general land-uses and traffic patterns, integrating them for the long term. This is a big benefit in establishing predictability. At the same time, stakeholders make planning decisions using the program as a framework. HCPs can be catalysts for creative management through stakeholder-developed solutions.



© B. Moose Peterson



© San Diego County Multiple-Species Conservation Program

Environmental education at Steltzer County Park.

“Overall coordination between stakeholders is higher than it’s ever been,” said Keith Greer, Program Manager for the Multiple-Species Conservation Program for the City of San Diego. “Endangered species have become an integral component of plans. Now, people pick up the phone to talk about issues.”

Designed to conserve coastal sage scrub, chaparral, oak woodlands, riparian corridors, freshwater marshes and grasslands, along with two dozen other vegetative communities, the Habitat Conservation Plan includes many endangered and threatened species, as well as some species that are not listed in an effort to keep them from declining to the point that they need state or federal protection. The plan area is 582,243 acres of habitat for the coastal California gnatcatcher, least Bell’s vireo, Otay mesa-mint, arroyo toad, San Diego fairy shrimp, Nevin’s barberry, and 80 unlisted species.

“Although the planning areas may not have the same obvious qualities of national parks with their charismatic animals and unique land forms, people have come to recognize lesser-known endangered and sensitive species and their habitats for their ecological resource values,” said Bill Tippetts, Environmental Program Manager for the California Department of Fish and Game.

The San Diego County Board of Supervisors, the Sierra Club, the Building Industry Association, the San Diego Association of Governments, and San Diego Gas and Electric Company are some of the plan stakeholders.



© Kelly Balo, City of San Diego.

Keith Greer and Chad Kane of the City of San Diego use a global positioning system to document locations of the endangered willow monardella during field surveys.



In 2002, the National Association of Counties honored San Diego County’s Multiple Species Conservation Program with an achievement award in its County Model Program.

Cyanotech: Algae Aquaculture and Endangered Hawaiian Stilts

What do endangered Hawaiian stilts have in common with a company that makes health supplements? They both like shallow wetlands that produce algae.

On the Big Island of Hawaii, Cyanotech Corporation developed a Habitat Conservation Plan for the wading birds after the business expanded its algae production ponds from 10 to 90 acres and the stilts moved in.

“When the Hawaiian stilts arrived, we called the Fish and Wildlife Service,” said Dr. Gerald Cysewski, chief executive officer of the company. “The Service suggested that we contact Ducks Unlimited and the Hawaii Division of Forestry and Wildlife, something that we did. Then we created a safe area for the birds. Wildlife authorities worked well with this private business, and the stilts have done well!” he said.

“If you provide food and water, they will show up,” commented Fish and Wildlife Service biologist James Kwon. “This experience has been educational in terms of habitat restoration elsewhere. Nesting and foraging areas at the Cyanotech facility have done wonders for recovery. The site has produced 237 birds in five years.”

Thanks to the Habitat Conservation Plan, the first in Hawaii, the birds now have their own 1.7-acre wetland, established and managed just for them. Key features of the “safe area” are its mud flats for nesting and shallow foraging areas away from the algae-production ponds, where chicks could drown in the fast-moving water of the raceways. To keep the stilts away from the



© Cyanotech Corporation

Tanks of microalgae are processed into nutritional supplements at Cyanotech's Kailua-Kona facility.



© John DeMello

A Hawaiian stilt checks the eggs in its nest.



Jeff Newman, USFWS

Biologists Scott Waddington, Cyanotech Corporation; Paul J. Conry, Division of Forestry and Wildlife; and James Kwon, U.S. Fish and Wildlife Service, visit Cyanotech's microalgae production site.

raceways, Cyanotech employees create human disturbance by driving golf carts along the land-strips that separate the ponds.

In January, Cyanotech's biologists flood the pond before the breeding season. Then, to encourage invertebrates, biologists draw down the water and add algae—a sort of natural nutrition supplement—to increase the foraging areas for stilt chicks whose diet is small fish, brine fly larvae, and water insects. Along with monitoring the number of chicks that hatch and fledge, biologists trap animals such as the Indian mongoose, a species introduced to control rats on sugar plantations, and also feral cats

that could prey on the birds. These management activities explain why the stilts have flourished at their new home.

In 2001, the Hawaiian Audubon Society honored Cyanotech with its Corporate Conservation Award after the company's initiatives resulted in an increase of 194 stilts, more than 10 percent of the state's population! The Habitat Conservation Plan is authorized for three years, to provide a period short enough to evaluate the effects of the improved habitat and monitoring activities. Given the number of fledglings produced the first year, Cyanotech has the option of not managing the nesting area for the next two years.

Magic Carpet Woods Association: Woods, a Beach, Piping Plovers, and Homes

In Michigan, building homes with access to a beach that is potential habitat for endangered piping plovers can be compatible with the recovery of the species. The key is preparing for contingencies, something that Frank Petty of the Magic Carpet Woods Association is doing.

Mr. Petty wants to retain the natural qualities of the property that his family has owned for 30 years along a half-mile of Lake Michigan shoreline while providing for low-density residential use. Plans for the 91-acre site allow for 13 houses overlooking Lake Michigan and protect the adjacent open-dune and beach habitat, along with any piping plovers that may frequent the area. Plovers now use the adjacent Leelanau State Park beach for nesting and may forage or even nest on the Magic Carpet Woods beach in the future.

“The first house is nearing completion, and the owner is thrilled,” Mr. Petty said. “Our original plan was to do something good with a conservation easement on the forested portion of the property. That was important to establish the tone of the area. Working with the Fish and Wildlife Service, the idea expanded to include a conservation plan for the beachfront area and the potential plover habitat,” he added. “We’re keeping the lake-front sites at least 175-feet wide to preserve the character of the place,” he said.

The HCP includes conservation measures that are designed to enhance and protect the piping plover habitat adjacent to the housing development. These measures include monitoring the habitat and keeping predators



Jack Dingledine, USFWS

Frank Petty, Magic Carpet Woods Association, and Craig Czarnecki, U.S. Fish and Wildlife Service, at the steps of the first home built under the Habitat Conservation Plan.



Peter Fasbender, USFWS

Lake Michigan’s Leelanau State Park: quality piping plover habitat immediately adjacent to the Magic Carpet Woods HCP property.

away from any nests that plovers may make. In addition, the HCP provides measures intended to protect the threatened Pitcher's thistle, including a boardwalk through the open dunes system. The Michigan Department of Natural Resources and the Fish and Wildlife Service have developed an education program for both species to help people recognize and protect them.



© John H. Gavin

An endangered piping plover.

Culebra Northshore Habitat Conservation Plan: Homes and Sea Turtles in Puerto Rico

Like the Magic Carpet Woods Habitat Conservation Plan, the first HCP in the Caribbean establishes conservation areas adjacent to beachfront homes.

In the Culebra HCP, the permit-holder is managing the beach for the continued use of endangered hawksbill and leatherback sea turtles by, among other provisions,

saving the nearby forest as a buffer against erosion.

“Conservation is economically important,” said Bill Mailloux, architect and builder. “People who come here are looking for beautiful, natural areas. They like the idea of seeing sea turtles and having tropical forests as their surroundings. When they

are planning a second home or a retirement home, people want the best possible guarantee that the environment will remain pristine forever.” Having a formal conservation plan in place gives potential buyers peace of mind in knowing that the natural beauty that attracted them to the area will remain unspoiled.



The first home built at Culebra Northshore.

© Bill Mailloux



An endangered leatherback sea turtle.

© Matthew Godfrey, Sea Turtle Program Coordinator, North Carolina Wildlife Resources Commission



An endangered hawksbill sea turtle.

© Michelle Schärer, University of Puerto Rico

Lenox Village Habitat Conservation Plan: Green Space, People, and Nashville Crayfish

In Nashville, when Regent Development began to plan Lenox Village—with houses, offices, and stores—the company experienced a couple of unexpected developments of its own. A five-acre farm pond on the site turned out to be home to a remnant population of endangered Nashville crayfish, isolated decades earlier when a dam was built on a Mill Creek tributary. Not only that, the dam was leaking. Terming the dam a safety hazard, Tennessee authorities told the landowner that it had to be repaired or replaced.

That's when Regent Development, the Tennessee Wildlife Resources Agency, the Tennessee Department of Environment and Conservation, and the Fish and Wildlife Service started talking. The result is a Habitat Conservation Plan for 101 acres including an intermittent stream that the company calls “an amenity for the community.”

“The Habitat Conservation Plan gave us a means to make our concept a reality,” said Rick Blackburn of Regent Development. “We will improve the stream that runs through the site to benefit the environment and the community. At the same time, we’ll keep the Nashville crayfish as part of Lenox Village.”

The HCP requires the company to restore the stream to its meandering status with pools and riffles near a forested hillside and establish a stream side buffer as a common area that the home owners’ association



Doug Winford, USFWS

Developers Rick Blackburn and Dave McGowan at the entrance to Lenox Village. With 15 acres of green space, the planned community received a design award from the Middle-Tennessee Chapter of the American Institute of Architects.

will protect in perpetuity, in keeping with a conservation easement. Trees native to Tennessee—such as sycamores, willows, oaks, and maples—will provide a buffer along the restored stream. Signs along the stream will let people know the needs of the crayfish.

Biologists expect downstream crayfish to recolonize the restored habitat, along with crayfish relocated from other projects.



© Rick Blackburn, Lenox Village

This entrance to Lenox Village shows some of the green space incorporated into the development.

The endangered Nashville crayfish is also protected as a state endangered species. The Tennessee Wildlife Resources Agency, Tennessee Department of Environment and Conservation, and the U.S. Fish and Wildlife Service are monitoring the species.



Tim Merritt, USFWS

Snowshoe Mountain Resort: a Vacation Place for People, a Home for Northern Flying Squirrels

“This project is a very important one for us,” says Bruce Pittet, Vice President and General Manager of West Virginia’s Snowshoe Mountain Resort. “The Camp Wilderness Habitat Conservation Plan is the beginning of a partnership with the U.S. Fish and Wildlife Service.” This is the first Habitat Conservation Plan in West Virginia.

Mr. Pittet is referring to a plan that Snowshoe Resort developed to save endangered northern flying

squirrels while building 55 homes near the summit of Cheat Mountain in Pocahontas County. Known especially for its skiing, Snowshoe is a four-season resort in the Allegheny Mountains. Created 30 years ago, Snowshoe Mountain Resort is adjacent to the 900,000-acre Monongahela National Forest.

In 2000, the West Virginia Department of Highways discovered northern flying squirrels, an endangered species,

and Cheat Mountain salamanders, a threatened species, while doing surveys for a 3-mile extension of an access road. On learning of the listed species, Snowshoe’s engineering and planning staff members contacted the West Virginia Field Office of the Fish and Wildlife Service. They decided to reroute the new road to provide initial protection for the squirrels and salamanders. Then, looking ahead, they developed the Habitat Conservation Plan.



Snowshoe condos at the top of the mountain and ski trails in the foreground.

© Snowshoe Mountain Resort

The 24-year incidental take permit enables Snowshoe Mountain Resort to build Camp Wilderness, a community of townhouses and condominiums, on 39 forested acres while it protects 85 acres of habitat in perpetuity for the flying squirrels through a conservation easement.

“We are working closely with Service staff members because we want to continue to be good stewards on our 11,000 acres,” says Jason Brown, Snowshoe’s Director of Engineering and Planning. “We’re in a growth period and staying current

with endangered species issues is important to our resort community. After all, the company motto is ‘Forever Wild.’”

“Snowshoe Mountain has done an excellent job in responding to the needs of this endangered species,” says Shane Jones of the Fish and Wildlife Service. “Because West Virginia northern flying squirrels are so mobile, as long as you take appropriate measures and provide suitable habitat, the animals will do very well on their own.”



Larry Master, USFWS

Northern flying squirrels den in the trees by day and are active at night.



© Snowshoe Mountain Resort

Snowshoe Mountain Resort’s Jason Brown and the Fish and Wildlife Service’s Shane Jones discuss placement of one of the nest boxes.

Plum Creek Timber Company: a Landscape-Level Habitat Conservation Plan for Native Fish

In a landscape-level Habitat Conservation Plan for native fish in the Northwest, Plum Creek Timber Company is managing forests and water for species such as bull trout, steelhead, and redband trout. While ensuring sustained timber production and business certainty, the HCP protects salmon-family species on 1.4 million acres in Montana and 40,000 acres in Idaho.

“The second-largest owner of land with bull trout after the federal government, Plum Creek Timber Company came to the Fish and Wildlife Service, saying that it wanted to be known as the company that could operate on land with endangered species,” said Service biologist Ted Koch in Boise, Idaho.

“Developing our Habitat Conservation Plan was ground-based, and it took two years, but the Fish and Wildlife Service encouraged us. We had 130 public hearings so that people could comment,” said Bob Jirsa, Plum Creek’s Director of Corporate Affairs.

Now, after two years, results are good. Plum Creek has consultants monitoring stream temperatures, channel migration, and sediment loads. “The native fish HCP concentrates on retaining trees along streams to maintain cool water and fish habitat that wood creates when it naturally falls into streams,” said Bob Ries, National Oceanic and Atmospheric Administration–Fisheries biologist. “Other conservation initiatives are eliminating unnecessary



A winter view of Plum Creek land near Missoula, Montana.

© Laurie Lane



Plum Creek biologist Ron Steiner, hydrologist Brian Sugden, and U.S. Fish and Wildlife Service biologist Robert Lee review road drainage improvements in the West Twin Creek watershed.

© Laurie Lane

roads, reducing erosion from their surfaces, and directing runoff away from stream channels to minimize sedimentation. Plum Creek is continuing a range of practices for road management, maintenance, and construction to ensure good habitat conditions.” Fish and Wildlife Service biologists monitor the HCP on this extensive privately-owned landscape and assist Plum Creek in conducting adaptive management activities.

The company responded to customers’ interest in environmentally friendly products while financial literature has cited it as a good investment opportunity. In the past few years,



A school of bull trout making a spawning run.

© Jason Dunham, Boise Forestry Sciences Laboratory,
U.S. Forest Service

Green Diamond Resource Company’s Habitat Conservation Plan: Fish and Forests on the Olympic Peninsula

In one of the first Habitat Conservation Plans primarily for native fish in the Pacific Northwest, the Green Diamond Resource Company (formerly part of Simpson Resource Company) is managing forests and streams for salmon, bull trout, and sea-run cutthroat trout—species that live in the ocean but return to fresh water to spawn. Green Diamond’s Habitat Conservation Plan includes other wildlife, too, while providing for timber harvest across a 260,000-acre landscape on the Olympic Peninsula of Washington State.

Washington Department of
Fish and Wildlife



Green Diamond’s HCP protects marbled murrelets, bull trout, and bald eagles—along with a range of unlisted species.



Using this technique for steep-terrain logging keeps harvested trees from creating sediment in streams that are home to bull trout.

Craig A. Hansen, USFWS

Plum Creek Timber Company: a Landscape-Level Habitat Conservation Plan for Native Fish



R. Arne Wick, USFWS

Kit Fischer, a Plum Creek fisheries science technician, records data from Trail Creek to make fish population estimates for the company's adaptive management study.

Plum Creek has gone from the Nation's twelfth-largest timber-producer to the second-largest. "Don't let anyone say that a company can't be profitable and environmentally responsible," Mr. Jirsa said.

Dr. Lorin Hicks, Plum Creek's Director of Environmental Affairs, noted that clean water issues have a direct effect on the health and livelihood of many people, so this HCP provides benefits beyond protecting endangered species. The quality of habitat, rather than the number of fish, is a measure of success.

Under the HCP, Plum Creek is conserving streams and rivers by preserving cold water, clean water, complex habitat, and connected habitat. Key management activities are maintaining forest density and tree size, providing shade, ensuring bank stability, and creating woody debris for fish as well as amphibians and terrestrial species. Fallen logs that cross part of a stream may slow the flow and create a smooth, deep upstream pool as habitat. The bull trout needs clear, cold streams that range in temperature from 40 to 60 degrees Fahrenheit. Because of its strict habitat requirements, the species is a good indicator of water quality and forest-ecosystem health.

Questions and Answers

What are Habitat Conservation Plans?

Habitat Conservation Plans are planning documents required as part of an application for an incidental take permit. Congress intended HCPs to reduce conflicts between listed species and economic development, provide a framework that encourages cooperation and creative partnerships between the public and private sectors, and integrate land-use activities with conservation goals.

HCPs can apply to both listed and nonlisted species, including those that are candidates or have been proposed for listing. Conserving species before they are in danger of extinction or are likely to become so can also provide early benefits and prevent the need for listing.

Who needs a Habitat Conservation Plan?

People who believe that their otherwise lawful activities may result in the incidental take of a listed wildlife species need a permit. The Fish and Wildlife Service or the National Oceanic and Atmospheric Administration–Fisheries will help determine whether a proposed project is likely to result in take and whether an HCP is an option to consider. The two agencies will provide technical assistance to help design projects to avoid take. The permit may be issued to states, counties, cities, tribes, corporations, and private citizens.

Federal agencies are not eligible to apply for a permit; they have a responsibility to use their authorities to conserve listed species and to consult with the Fish and Wildlife Service and the National Oceanic and Atmospheric Administration–Fisheries under section 7 of the Act to ensure that their activities do not jeopardize the continued existence of these species.

What's in a Habitat Conservation Plan?

A Habitat Conservation Plan includes an *assessment* of impacts likely to result from the proposed take of one or more federally listed or unlisted species; *measures* that the applicant for the incidental take permit will undertake to monitor, mitigate, and minimize the impact on wildlife; *funding sources* to implement the plan; *procedures* to deal with changed and unforeseen circumstances; and *alternative actions* that the permit applicant analyzed and the reasons that the applicant didn't adopt them.

Why are Habitat Conservation Plans important?

Before Congress amended the law in 1982, landowners risked violating the Endangered Species Act if their otherwise lawful management activities killed or harmed listed species. This potential liability caused some people to be concerned that discovering an endangered or threatened species on their property would restrict their use or enjoyment of their land or water.

By allowing the Fish and Wildlife Service to issue incidental take permits to landowners who develop Habitat Conservation Plans, Congress provided certainty that people can proceed with their activities, confident that they are consistent with the Endangered Species Act. This assurance is important, particularly to people who depend on their property for income.

Where do I find Habitat Conservation Plans described in the Endangered Species Act?

Section 10 of the Endangered Species Act, “Exceptions,” describes permits in section 10(a)(1). You may hear the expression “section 10” permits. Incidental take permits are described in section 10(a)(1)(B).

What does “take” mean?

The Endangered Species Act makes it unlawful for individuals to “take” listed animals except by permit. It defines “take” as harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect or attempt to engage in these activities. Harm includes habitat modification that kills or injures a species by impairing essential behavior such as breeding, feeding, or sheltering.

The Endangered Species Act does not prohibit the take of listed plant species on non-federal lands, unless the take is in violation of state law.

What is an “Incidental Take” Permit?

The Endangered Species Act authorizes permits to be issued to “take” listed wildlife species incidental to otherwise lawful activities, provided that permit holders have Habitat Conservation Plans that meet criteria to “minimize and mitigate” impacts that may result. That could mean, for example, that people who want to harvest timber in an area that is habitat for bull trout, a threatened species, can do so, provided that they fulfill the provisions of the negotiated HCPs.

In this case, the HCPs would usually protect stream side areas from siltation, keep the water clear and cold, and ensure that habitat is complex and connected. Basically, the timber harvest proceeds, and the aquatic habitat for the bull trout is protected.

The Secretaries of Commerce and Interior issue permits through the Directors of the National Oceanic and Atmospheric Administration–Fisheries and the Fish and Wildlife Service. In general, the National Oceanic and Atmospheric Administration–Fisheries is responsible for listed marine mammals, anadromous fish, and other living marine resources.

The Fish and Wildlife Service is responsible for terrestrial and fresh water species.

Private citizens and area jurisdictions—states, counties, and cities—and tribal governments may obtain incidental take permits in connection with their land, water, and ocean activities. These incidental take permits will not appreciably reduce the likelihood of the survival and recovery of the species in the wild.

Does a Habitat Conservation Plan have a legal commitment?

The incidental take permit makes the elements of a Habitat Conservation Plan legally binding. While this permit includes an expiration date, the mitigation identified in the HCP can be in perpetuity. If a violation is deemed technical or inadvertent, the landowner will receive a notice of noncompliance that recommends alternative actions to regain compliance with the terms of the permit.

What kinds of actions are considered mitigation?

Mitigation may take the form of preserving habitat through an acquisition or a conservation easement, enhancing or restoring degraded or former habitat, creating new habitat, establishing buffer areas around existing habitat, modifying land-use practices, and restricting access to habitat. Mitigation measures reduce the adverse effects of proposed activities on species included in an HCP.

What is the “No Surprises” rule?

The “No Surprises” regulations give permit holders regulatory certainty—that is, certainty that they will not have to commit additional funding or implement further measures to manage land and water if *unforeseen* circumstances arise after they create their HCPs. The “No Surprises” rule is one of the benefits of Habitat Conservation Plans. It assures people that the Fish and Wildlife Service and National Oceanic and Atmospheric Administration–Fisheries will not require further mitigation from permit-holders who are adequately implementing approved HCPs.

The government honors its commitment as long as permit-holders honor theirs.

If the conservation program is operating as the HCP intended, then the two agencies will not require any conservation and mitigation measures in addition to those already provided in the HCP, even if extraordinary circumstances develop.

What will the National Oceanic and Atmospheric Administration–Fisheries and the Fish and Wildlife Service do in the event of unforeseen circumstances that may jeopardize the species?

While the two agencies believe that it will be exceedingly rare for unforeseen circumstances to result in a jeopardy situation, they will use their authorities and resources to resolve the situation. Along with working with other federal agencies, the National Oceanic and Atmospheric Administration–Fisheries and the Fish and Wildlife Service will work with the permittee within the framework of the HCP’s conservation program

to redirect conservation and mitigation measures to remove the jeopardizing effects.

In the unlikely event that these efforts do not remove the jeopardizing effects, the Services will attempt to remove the jeopardizing effects by augmenting the HCP’s conservation program. With the consent of the permittee, the Services will pursue options that include, but are not limited to, extending or modifying the existing permit, capturing and relocating the species, compensating the landowner to forego the activity, purchasing an easement or fee-simple interest in the property, or arranging for a third-party acquisition of an interest in the property. In the highly unlikely event that augmenting the HCP’s conservation program does not remove the jeopardizing effects, the Services will, as a last resort, suspend or revoke the incidental take permit.

What is adaptive management?

In contrast to *unforeseen* circumstances, certain events, such as hurricanes or wildfire, can be expected as *changed* circumstances. The Fish and Wildlife Service and the National Oceanic and Atmospheric Administration–Fisheries work with landowners in developing HCPs to incorporate adaptive management strategies to address changed circumstances. These provisions are also useful for species whose biology is not fully understood when the plan is developed. They allow previously-agreed-upon management changes within the plan area when new information about a species indicates that they are needed to reach biological goals.

What is the Five-Point Policy?

The Fish and Wildlife Service and the National Oceanic and Atmospheric Administration—Fisheries have finalized an addendum to the *Handbook for Habitat Conservation Planning and Incidental Take Permitting Process*. This addendum, also known as the five-point policy, provides additional guidance on HCPs regarding: (1) establishment of biological goals and objectives for HCPs, (2) adaptive management, (3) monitoring, (4) determination of permit duration, and (5) the use of public participation.

What is an example of a Habitat Conservation Plan?

In Tennessee, developers who wanted to build a community of homes, businesses, schools, and shops near a tributary to Mill Creek created a Habitat Conservation Plan for the endangered Nashville crayfish. After obtaining a permit that allowed them to “take” the species incidental to their construction activities, the developers restored the stream that runs through the property and planted stream side trees and shrubs to make sure that the water quality for the crayfish remains good. The new community promotes its “green space” amenity—a benefit for people *and* wildlife.

Designed to offset any harmful effects that the activities might have on listed species, HCPs enable development to proceed and provide for conservation. Permits assure landowners that their activities will not violate the Endangered Species Act.

How many HCPs are being developed, and how many acres do they include?

As of February 7, 2005, the Fish and Wildlife Service had issued incidental take permits for 479 Habitat Conservation Plans that covered almost 39 million acres and 590 endangered and threatened species.

How do I know if I have a listed species on my land?

The nearest Fish and Wildlife Service field office, your state fish and wildlife agency, or the National Oceanic and Atmospheric Administration—Fisheries can help you answer this question.

A telephone number for the HCP coordinator for your state or region is in this booklet. For other agencies, check the listings in your local telephone directory under state and U.S. government.

What is the process for getting an HCP and incidental take permit?

The landowner decides whether a Habitat Conservation Plan is something to consider. The Fish and Wildlife Service and the National Oceanic and Atmospheric Administration—Fisheries provide guidance and technical assistance in helping people develop HCPs and obtain permits.

The HCP coordinator for your region can tell you more. See the list on the last page of this booklet.

How long will it take to process an application?

If a project is in the “low-effect” category—one that has minor or negligible effects on listed, proposed, or candidate species and their habitats or on other environmental values or resources—the target time for processing permits is up to

three months. Others, depending on their complexity, level of analysis, and sometimes the degree of public controversy, have a proposed processing time of 4 to 12 months. Large-scale plans or ones that are particularly complicated may take longer to develop and process.

Who approves the Habitat Conservation Plan?

The Fish and Wildlife Service’s Regional Director for the region that includes your state approves these plans.

For the National Oceanic and Atmospheric Administration—Fisheries, the Director of the Office of Protected Species in Washington, D.C. is responsible for approving these plans.

Does the public get a chance to comment on plans?

Yes. The Fish and Wildlife Service and National Oceanic and Atmospheric Administration—Fisheries require a minimum 30-day public comment period on applications for incidental take permits for “low-effect” HCPs and a 60- to 90-day public comment period for all other HCPs, depending on size and complexity.

Does someone monitor plans for compliance?

Yes. The Fish and Wildlife Service and National Oceanic and Atmospheric Administration—Fisheries or a party that the applicant and the agencies designate can monitor projects to ensure compliance with the terms of the incidental take permit or the HCP. For example, a “party” can be a state wildlife agency, an area government agency, or a non-profit organization.

For More Information about Habitat Conservation Plans

For more information, including the planning process and applications, contact the Habitat Conservation Plan coordinator at the Fish and Wildlife Service office that includes your state:

Pacific Region

(Region One)

1-503-231-6118

<http://pacific.fws.gov/>

Hawaii, Idaho, Oregon, Washington, American Samoa, Commonwealth of the Northern Mariana Islands, Guam, Pacific Trust Territories

California/Nevada Operations

1-916-414-6464

<http://pacific.fws.gov/>

California, Nevada

Southwest Region

(Region Two)

1-505-248-6654

<http://southwest.fws.gov/>

Arizona, New Mexico, Oklahoma, Texas

Great Lakes, Big Rivers Region

(Region Three)

1-612-713-5343

<http://midwest.fws.gov/>

Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, Wisconsin

Southeast Region

(Region Four)

1-404-679-7313

<http://southeast.fws.gov/>

Alabama, Arkansas, Louisiana, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Florida, Tennessee, Puerto Rico, U.S. Virgin Islands

Northeast Region

(Region Five)

1-413-253-8627

<http://northeast.fws.gov/>

Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia

Mountain-Prairie Region

(Region Six)

1-303-236-4258

<http://mountain-prairie.fws.gov/>

Colorado, Kansas, Montana, Nebraska, North Dakota, South Dakota, Utah, Wyoming

Alaska

(Region Seven)

1-907-786-3868

<http://alaska.fws.gov/>

Alaska

Headquarters

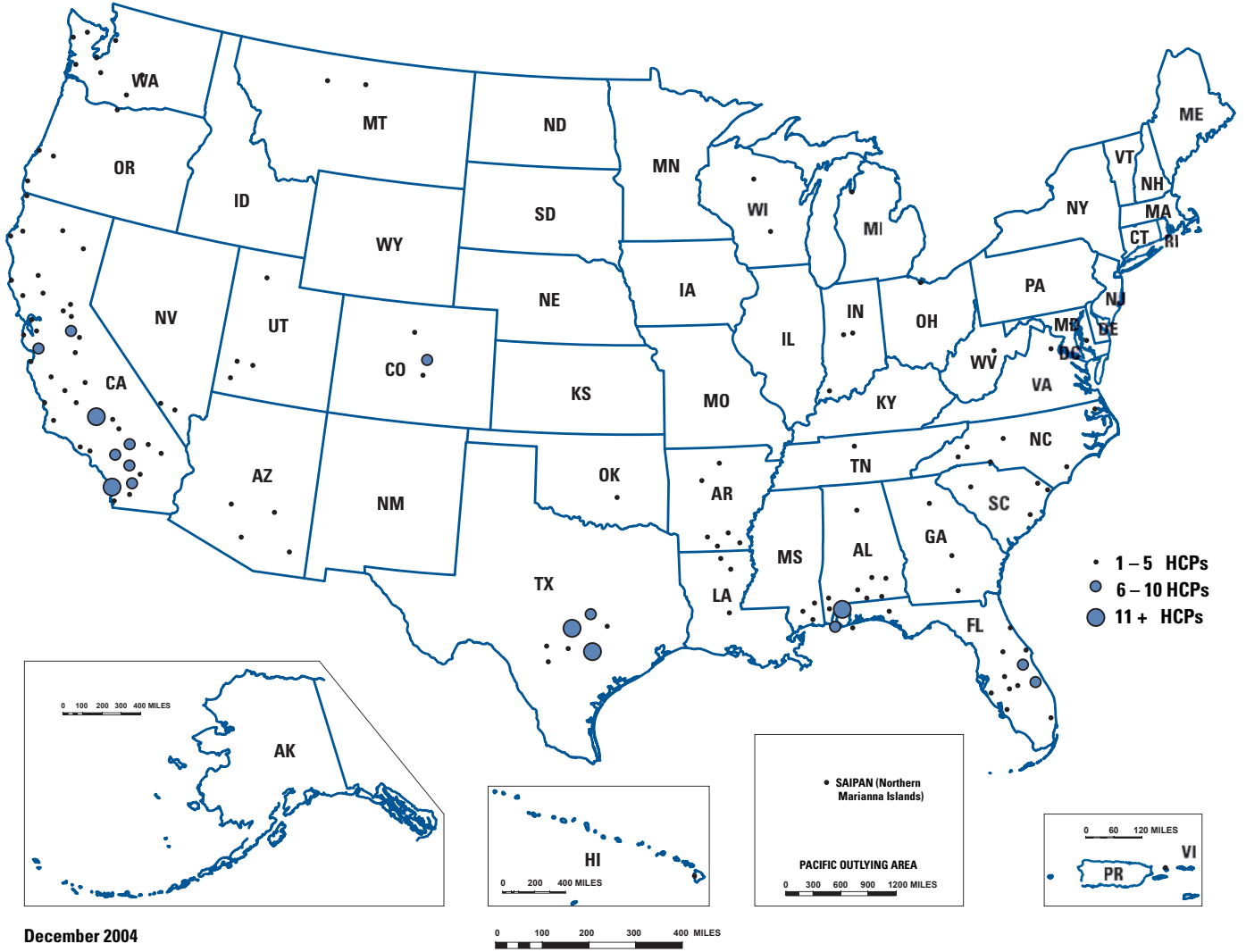
1-703-358-2106

Arlington, Virginia and Washington, D.C.

The Fish and Wildlife Service's Endangered Species home page is:
<http://endangered.fws.gov>

The National Oceanic and Atmospheric Administration – Fisheries' home page is:
<http://www.noaa.gov/fisheries.html>

Locations of Habitat Conservation Plans



U.S. Fish & Wildlife Service
<http://www.fws.gov>

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