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FISH AND WILDLIFE SERVICE

Challenges to Managing the Carlsbad, California, Field Office's Endangered Species Workload



GAO

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Contents

Letter		1
Appendix I	The Carlsbad Office’s Position on Concerns Raised About Three Projects	31
Appendix II	Consultation Sampling Error	47
Appendix III	Comments From the Department of the Interior	48
Appendix IV	GAO Contacts and Staff Acknowledgements	51
<hr/> Tables		
	Table 1: The Number of Staff on Board, the Number Requested, and the Number of Staff Positions Funded, Fiscal Years 1996 Through 2000	18
	Table 2: Separation Rates of Staff in Nonclerical Positions From the Carlsbad Field Office and the Fish and Wildlife Service, Fiscal Years 1997 Through 2000	19
	Table 3: Sampling Error for Each Estimate	47
<hr/> Figures		
	Figure 1: The Completeness and Accuracy of Consultation Logs, Fiscal Years 1992 Through 1999	7
	Figure 2: The Completeness and Accuracy of 40 HCPs	9
	Figure 3: Map of Initial Project Boundary and Service Suggested Project Area, Peninsular Bighorn Sheep Movement Corridor From Occupied to Unoccupied Habitat, and the Project’s Proximity to Tramway Road	33
	Figure 4: Map Illustrating the Location of the Sixth Pair of Coastal California Gnatcatchers Compared With the Other Five Pairs, the Flight Corridor, and the Wildlife Corridor	40

Abbreviations

EA	Environmental Assessment
EIS	Environmental Impact Statement
HCP	habitat conservation plan
NPR	National Performance Review



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United States General Accounting Office
Washington, DC 20548

January 31, 2001

The Honorable Don Young
The Honorable Ken Calvert
House of Representatives

The U.S. Fish and Wildlife Service (Service) is responsible for administering the Endangered Species Act for freshwater and land species. Under the act, the Service works with federal agencies and private landowners to ensure that land development or other activities do not place federally listed endangered or threatened species at the risk of extinction.

Land development can conflict with the protection of listed species. Such is the case in southern California, where recent population growth and land development have often been at odds with the efforts of the Service's Carlsbad field office to protect the large number of listed species that inhabit the area. Over the last several years, landowners and developers, among others, have complained about how the Carlsbad office has implemented the act's consultation and habitat conservation planning (HCP) provisions. Complaints have focused on the Carlsbad office's performance in documenting its suggested offsetting measures to avoid killing, harming, or harassing endangered species and allegations that the office often changes its mind on these measures, which results in delays in concluding a consultation or developing an HCP.

Because of these concerns, you asked us to determine (1) whether the Carlsbad office had an effective system for tracking its workload of consultations and HCPs; (2) the extent to which the office is complying with the Service's time frames for completing formal consultations and HCP processing; (3) in those instances where the time frames are exceeded, why this is occurring; and (4) if the Carlsbad office has a system for registering and resolving customers' complaints. We presented our preliminary findings in a hearing before the House Committee on Resources on September 14, 2000.¹

¹See *Fish and Wildlife Service: Weaknesses in the Management of the Endangered Species Program Workload at the Carlsbad, California Field Office* (GAO/T-RCED-00-293, Sept. 14, 2000).

In addition, to illustrate the concerns of individuals who have either sought consultations or applied for permits from the Carlsbad office, we are providing you with information on three projects as well as the field office's perspective on these concerns. (See app. I.)

Results in Brief

At the time of our review, the Carlsbad office did not have effective systems for tracking its workload of consultations and HCPs. We estimated that the consultation tracking system—which was manual—was incomplete and inaccurate for 769 (75 percent) of 1,026 informal and formal consultations that occurred from fiscal year 1992, the year the Carlsbad office began operations, through fiscal 1999. For HCPs, the Carlsbad office had no tracking system of its own but relied on the Service's nationwide HCP database for tracking them, which we likewise found was incomplete and inaccurate. For example, the HCP database did not identify the date when an applicant initially contacted the Carlsbad office for 15 of the 40 HCPs associated with the Carlsbad office. We also determined that the Carlsbad office did not always maintain its files in accordance with federal internal control standards and the Service's guidelines. For example, many of the transactions associated with consultations and HCPs had not been promptly or accurately recorded. The Service and the Carlsbad office have recently taken actions to address these problems. Specifically, the Carlsbad office is implementing a computerized project-tracking system for its consultations and HCPs and is developing a centralized filing system. The Service has directed its regional offices to ensure that the information in its nationwide HCP database is accurate and current. We have not assessed the effectiveness of these actions nor verified whether they have been completed.

We found that formal consultations and HCPs were often not completed within the Service's recommended or targeted time frames. According to the Service's guidelines, formal consultations should be completed within 135 days of being initiated, unless extensions are requested and agreed to by the affected parties. We found that about 128 (35 percent) of the 361 formal consultations initiated from 1992 through 1999 took longer than 135 days to complete. Our analysis included consultations that might have had agreed-upon extensions. Although Carlsbad officials believe many of the 128 formal consultations exceeded 135 days because of agreed-upon extensions, they have not performed a complete analysis to demonstrate this. The Service's regional offices are responsible for reviewing and approving HCPs, and the targeted time frames for processing them differ depending on the HCPs' potential impact. Of the 40 HCPs associated with the Carlsbad office, we found that 11 of 26 (42 percent) were not

processed within the Service's targeted time frames. For the remaining 14 HCPs, 13 were still ongoing or had been withdrawn, and the Carlsbad office could not provide complete data to determine whether the targeted time frames had been met for the other plan.

We attempted to determine why some projects exceed the Service's recommended or targeted time frames for completion by analyzing 13 consultations and HCPs in detail. However, because of insufficient documentation, we could not make such a determination. Specifically, the results of key events, such as meetings between Carlsbad officials and an applicant, were not always documented. And when documentation did exist, it was not sufficiently detailed to explain the actions taken by the Carlsbad office. According to Carlsbad officials, the factors that significantly affect their ability to meet recommended time frames include workload, staff shortages, staff turnover, and agreed-upon extensions to allow the federal agencies or applicants time to gather and analyze additional information.

Executive Order No. 12862 requires executive departments and agencies to make their complaint systems easily accessible to the public and to provide a means to address customers' complaints. The Service's current customer service policy does not address the need for a complaint system. Despite this, the Carlsbad office has established an informal system for handling complaints. Typically, the Carlsbad office refers complaints to a supervisor or branch or division chief for resolution. However, supervisors may or may not document the concerns raised or how they were resolved. Furthermore, there are no written procedures on how to (1) handle complaints nor a central file to determine how complaints were resolved and (2) collect and analyze complaints to ensure that root causes of dissatisfaction are identified and fixed. According to Carlsbad officials, more serious complaints, such as recurring problems with an employee's conduct, are documented in the employee's performance evaluations, which could form the basis for a pay reduction or removal.

This report makes several recommendations to improve the operations of the Carlsbad office, including the management of its endangered species workload, and the overall operations of the Service, including its ability to monitor field office operations and be more responsive to customer complaints. In commenting on our draft report, the Department of the Interior said that it generally agreed with the findings and supported the recommendations in the report. The Department stated that the Service is already taking actions to implement some of the recommendations, such as improving its documentation and workload-tracking system and is

actively considering other actions, such as reviewing its customer service policy to determine appropriate revisions in accordance with applicable departmental requirements.

Background

In 1973, the Congress enacted the Endangered Species Act to protect plant and animal species whose survival is at risk. The Secretary of the Interior, through the Fish and Wildlife Service, generally is responsible for implementing the act for freshwater and land species. Section 9 of the act, its primary species protection provision, and the act's implementing regulations generally prohibit the taking—killing, harming, or harassing—of threatened or endangered fish and wildlife species that are federally listed. In conjunction with this provision, the act also established two important processes that provide for the protection of listed species—the consultation process, under section 7, and the habitat conservation planning process, under section 10. The Service's field offices, like Carlsbad, are responsible for, among other things, implementing sections 7 and 10 of the act.

Section 7 requires federal agencies to consult with the Service to determine whether a proposed action that is federally authorized, carried out, or funded is likely to jeopardize the continued existence of any endangered or threatened species or adversely modify or destroy its critical habitat. To determine this, the Service conducts informal and formal consultations. Informal consultations, which precede formal consultations, may include discussions of whether a listed species inhabits the proposed action area and what affect the action may have on the species. Formal consultations are conducted when a federal agency determines that its actions may affect a listed species or its critical habitat and submits a written request to initiate formal consultation. From these consultations, the field office writes a biological opinion of whether the proposed action is likely to jeopardize the continued existence of a listed species or adversely affect its critical habitat. If this is likely to occur, the biological opinion will propose reasonable and prudent alternatives to the proposed action, if they are available. If the federal agency or landowner agrees to a suggested alternative, the consultation is concluded and the proposed action may proceed. If jeopardy is unlikely but an incidental take could still occur, the biological opinion will provide reasonable and prudent measures to minimize the impact of the take.

Likewise, section 10 of the act requires that landowners engaged in activities likely to cause the incidental taking of listed species, but not requiring federal authorization or funding, develop an HCP and obtain a

permit allowing for the incidental take. An HCP specifies, among other things, what measures will be taken to minimize and mitigate the adverse effects on listed species. The Service's field offices are responsible for assisting the applicant in preparing the HCP, ensuring that the HCP and the associated documents are complete, and coordinating with the appropriate regional office throughout development, approval, and implementation. Once a field office accepts a proposed plan as complete, the field office and the regional office jointly review the feasibility of the draft HCP. The regional office cannot approve a plan and issue an incidental take permit if doing so would appreciably reduce the species' chances of survival and recovery, among other things. In California and Nevada, the California/Nevada operations office issues the HCPs and associated incidental take permits.

The Service Is Working to Correct Problems in Its Tracking of Consultations and HCP Workload

During our review, we found that the Carlsbad office did not have effective systems for tracking its workload of consultations and HCPs. The manual logs that the Carlsbad office used to track consultations were incomplete and contained inaccurate data. Similar problems existed in the nationwide database that headquarters maintained and the Carlsbad office used to track its HCPs. Furthermore, the Carlsbad office had not instituted proper internal controls to ensure that all actions and events associated with the consultation and HCP process were promptly and accurately documented and that those records were readily available for examination. As a result, the Carlsbad office could not determine with any certainty how many consultations or HCPs it had under way, whether its actions were completed on time, or how long applicants had been involved in these processes. The Service and its Carlsbad office are taking actions to address these problems. These actions include implementing a computerized project tracking system for the Carlsbad office's consultation and HCP workload, improving the accuracy of data in the headquarters' HCP database, and implementing a centralized filing system in the Carlsbad office.

Carlsbad's System to Track Consultations Was Incomplete and Inaccurate

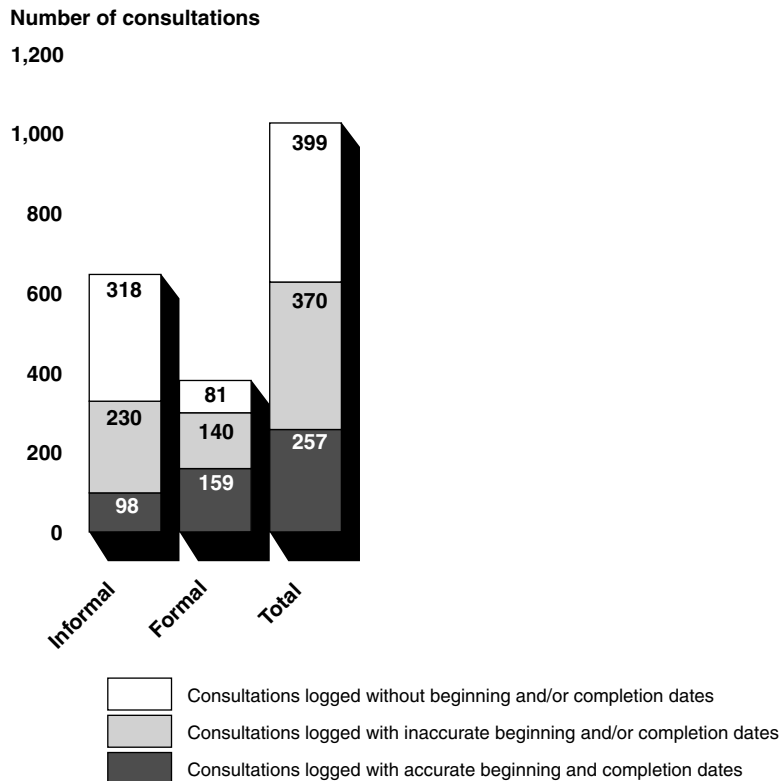
The Service has no requirements for how field offices track their workload. Service headquarters officials said that the field offices use a variety of systems to track workload, but they were not aware of the specific systems that each of them use. The Carlsbad office had developed a manual tracking system for formal and informal consultations to help manage its workload and provide headquarters with data to justify staffing and funding needs. We reviewed the manual consultation logs for fiscal years 1992 through 1999 to determine their completeness and accuracy.

According to the logs, the Carlsbad office entered into 646 informal and 380 formal consultations during this period.² We estimate that the logs were incomplete and inaccurate for 769 (75 percent) of 1,026 informal and formal consultations that were recorded.³ These logs, however, did not capture all of the office's consultations. According to Carlsbad officials, all of the informal consultations were not recorded because the staff were too busy and forgot to do so or did not consider the consultation significant enough to warrant documenting. From the entries that were made, we determined that the logs were incomplete and inaccurate with respect to identifying the dates that the consultations began or were completed. Figure 1 illustrates the extent to which the formal and informal consultation logs were incomplete and inaccurate.

²We did not include 52 formal consultations that occurred internally within the Service, such as consultations with a Service's wildlife refuge.

³All sampling errors for estimates are calculated at the 95-percent confidence level and are contained in appendix II.

Figure 1: The Completeness and Accuracy of Consultation Logs, Fiscal Years 1992 Through 1999



Source: GAO's analysis of data provided by the Carlsbad office.

We selected 30 formal consultations and 30 informal consultations that had been logged with both beginning and completion dates to determine whether the dates recorded on the logs were supported by source documents and were accurate. From the results of our sampling analysis, we projected that the beginning or completion dates on the logs were unsupported for 47 percent of the formal consultations and for 70 percent of the informal ones.

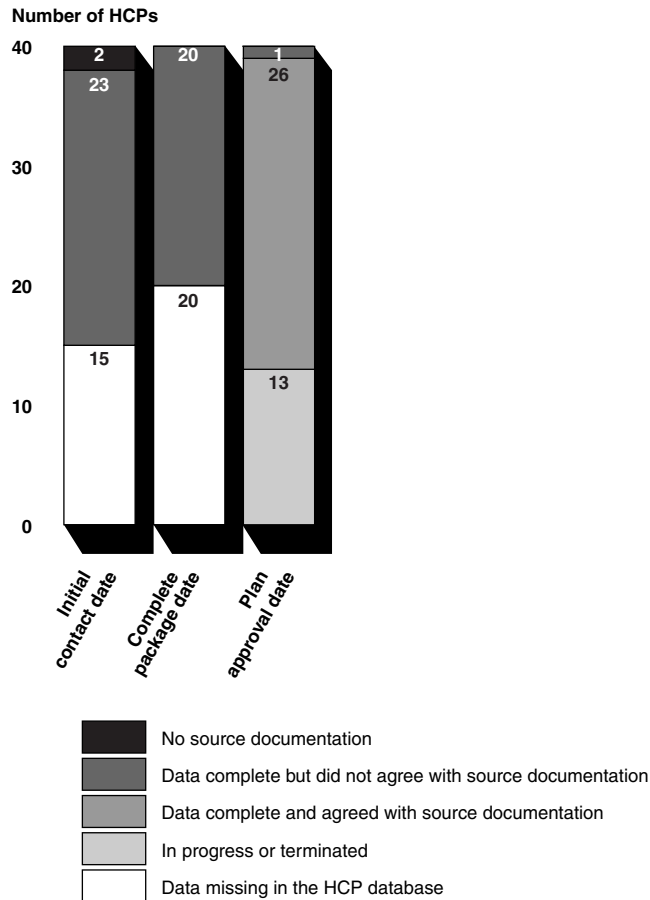
We also selected 30 informal consultations that did not have either the beginning or the completion dates recorded on the logs to determine whether the corresponding files also had incomplete documentation. We found documentation for the missing dates in the files for 26 (87 percent) of the 30 sampled consultations.

The Service's HCP Database Was Incomplete and Contained Inaccurate Information

The Service's field offices rely on a nationwide database administered by headquarters to track the status of HCPs. According to headquarters officials, this database is maintained to justify budget requests and tracks HCPs by capturing key information. Key information includes the date when an applicant initiated a request for an incidental take permit, the date when a complete application package—including the HCP—was received by the regional office, and the date when the HCP was approved and the incidental take permit was issued by the regional office.

The Service's nationwide database identified 40 HCPs associated with the Carlsbad office that were under way or completed. We reviewed the database for these 40 plans to ascertain whether it contained key information on their development and processing. We found that the Service's database was incomplete and contained errors. These problems limited the database's usefulness as a management tool for determining how long it takes to complete HCPs. Figure 2 illustrates the extent to which the HCP database was incomplete and inaccurate in terms of initial contact dates, the dates when the regional office received a complete application, and the date when a plan was approved and the incidental take permit was issued.

Figure 2: The Completeness and Accuracy of 40 HCPs



Source: GAO's analysis of data provided by the Carlsbad office.

The HCP database did not identify the dates when the applicants initially contacted the Carlsbad office for 15 of the 40 HCPs. The Carlsbad office provided us with source documentation for 23 of the 25 remaining plans that showed when the applicants initially contacted the office. However, in all instances, the dates recorded in the database differed from the dates on the source documents—varying from over 2 years prior to the recorded date to almost 5 years after the recorded date. The office could not locate source documents for the other two plans. Furthermore, although the office provided source documentation for 20 plans with completed package dates in the database, in all instances, the dates on the source documents were different from the dates recorded in the database—varying from 38 days prior to a recorded date to 427 days after that date. Finally, for 27 plans with issuance or permit expiration dates in the

database, 26 had dates that agreed with the source documentation provided by the Carlsbad office. The one plan that did not agree had a difference of 30 days between the recorded date and the actual date. As of August 2000, 10 plans were still in progress; consequently, the database did not contain issuance dates. In addition, three of the plans had been terminated or withdrawn. The database did not reflect the termination or withdrawal date for these three plans.

Carlsbad officials informed us that staff at the Portland regional office were supposed to enter the data into this database using information received from the Carlsbad office when the plan and other documentation were submitted for the regional office's review and approval. According to Service officials, for the database to become operational, regional staff had to enter an initial contact date for each HCP. We found that the database contained the same month and day for when the applicant initially contacted the Carlsbad office about the preparation of a plan for 18 of the 40 HCPs. According to the Service, this occurred because all three elements of a date—the month, day, and year—had to be entered for the database to accept the initial contact date. Attempts by regional office staff to enter just a year or a month and a year resulted in erroneous dates due to computer programming problems. However, because the Service had not defined what date should be used as the initial contact date and because older HCPs did not have all three elements of a date documented, the region did not have the actual date to enter in many cases. According to the Service, these problems have been recognized and corrective action is under way. Specifically, the Service has defined the "date [when] assistance [was] initiated" for all regional offices, and staff are in the process of reprogramming the date text field in the database so it will accept only years or months and years when all three elements of a date are unknown.

Concerning problems with the completed package date in the database, Service officials stated that they corrected this problem by defining this date for all regional offices as the date when the regional office receives a complete application forwarded by the field office.

Carlsbad Did Not Follow Federal Standards and Service Guidelines for Documenting Actions Related to Consultations and HCPs

Federal internal control standards and the Service's guidelines specify the actions that should be followed to help ensure that major performance and management challenges and the areas at greatest risk of fraud, waste, abuse, and mismanagement are being addressed.⁴ Specifically, internal control standards state that transactions should be promptly recorded to maintain their relevance to management in controlling operations and making decisions and to help ensure that all transactions are completely and accurately recorded. Furthermore, the standards stipulate that all transactions and other significant events need to be clearly documented, that the documentation should be readily available for examination, and that all documentation and records should be properly managed and maintained.

Moreover, the Service's operating guidelines state,

"documentation of the steps in the informal consultation process is essential to its continued utility and success. The administrative file should contain records of phone contacts, including names of the caller, the purpose of the call as it relates to the proposed action or action area, and any advice or recommendations provided by the Service's biologist. A meeting can be easily documented by a letter to appropriate parties that summarizes the meeting results, particularly any Service concerns and recommendations."

In addition to the delays and inaccuracies in recording the transactions associated with consultations and HCPs, the selected project files that we reviewed were incomplete. To illustrate, for the nine formal consultation project files that we examined, the only document in each file was the Carlsbad office's biological opinion. The files did not contain evidence of phone records or other documents that could be used to verify when a project began or the advice or recommended actions that the Carlsbad officials provided the applicants. Without this information, there has often been confusion between the office and its customers on what was agreed to and why. We also found that the Carlsbad office's files were not well maintained. Specifically, some project files contained documents that were not organized in any manner, and in other files, documents were missing. This lack of organization makes it difficult to determine when, why, and how often events, such as suggested avoidance or mitigation actions, occurred.

⁴See *Standards for Internal Control in the Federal Government*, U.S. General Accounting Office (1999) and *Endangered Species Consultation Handbook*, U.S. Fish and Wildlife Service and National Marine Fisheries Service (Mar. 1998).

Efforts Are Under Way to Improve the Systems for Determining Consultation and HCP Workload and Internal Controls

In testimony on September 14, 2000, before the House Committee on Resources, the Director of the Fish and Wildlife Service said that the Carlsbad office was developing a computerized, comprehensive database to improve project management, tracking, and record keeping.⁵ The Director said that the database would provide biologists and managers with an improved system to track the progress and the status of consultations, HCPs, and other time-sensitive documents. According to the Director, the database will, among other things, improve the documentation of project milestones, important meetings, and agency decision-making. Key information that will be captured by the database includes a history of the consultation, the dates when the project started and ended, and the outcome of the consultation, such as a biological opinion. Furthermore, the database will be an essential tool for determining whether the office is complying with time frames for the consultation process. We visited the Carlsbad office in mid-October 2000 and found the database to be operational; however, we did not check its reliability because it was too early in the implementation process.

In a memorandum dated August 30, 2000, the Service's Director requested that the regions update and verify the information contained in the HCP database. This request included procedures for maintaining up-to-date and accurate information within the HCP database. The procedures also provided standard definitions of data fields to ensure consistent entry of information. According to the Service, in October 2000, the regional offices completed the data entry and verification.

Finally, in testimony on September 14, 2000, the Service's Director also stated that the Carlsbad office is developing a centralized filing system that will integrate programmatic activities into consolidated project files. According to the Director, this action, in conjunction with the new project-tracking system, should allow the Carlsbad office to comply with federal internal control standards and the Service's guidelines for documenting actions related to consultations and HCPs.

⁵Testimony of Jamie Rappaport Clark, Director, U.S. Fish and Wildlife Service, Department of the Interior, before the House of Representatives, Committee on Resources, regarding the administration of the Endangered Species Act by the Carlsbad Fish and Wildlife office, Carlsbad, California (Sept. 14, 2000).

Some Formal Consultations and HCPs Exceeded Processing Time Frames

The Fish and Wildlife Service does not monitor whether its regional offices or field offices comply with internal guidelines for completing consultations and processing HCPs. At the Carlsbad office, we found that 35 percent of the completed formal consultations exceeded the 135-day time frame established by the Service. In addition, 42 percent of the HCPs submitted by the Carlsbad office for processing exceeded the time frames set by the Service's guidelines.

Some Formal Consultations Exceeded Service's Time Frames

Once formal consultations begin, under its guidelines, the Service has 135 days to render a biological opinion that specifies whether the project is likely to jeopardize the continued existence of a listed species or result in the destruction or adverse modification of critical habitat, unless extensions are requested and agreed to by affected parties. The Carlsbad office's logs showed that 380 formal consultations had been entered into and completed from fiscal year 1992 through fiscal 1999.⁶ Of these, 299 (79 percent) had the dates recorded for when the consultation was begun and completed, and 81 (21 percent) did not. As mentioned earlier, we found the dates on these logs to be incomplete and inaccurate. However, when we compared the average completion times from the log's data with the average completion times we developed from our sample, we concluded that the differences were not statistically significant and that we could use the logs to calculate how many consultations exceeded the Service's time frame. In addition, we provided Carlsbad officials with a list of the 81 formal consultations that had been logged with incomplete data. Carlsbad officials provided dates for 52 of these 81 projects, giving us a universe of 361 projects from which to calculate how long it took to complete them.⁷ Our calculations determined that 128 (35 percent) of the formal consultations exceeded the Service's time frame of 135 days. We analyzed only whether a project exceeded the recommended time frames—not the number of days exceeded. Our analysis also included consultations that may have had agreed-upon extensions. Although Carlsbad officials believe that many of the 128 formal consultations exceeded 135 days because of agreed-upon time extensions, they have not performed a complete analysis to demonstrate this.

⁶The office's logs identified 391 formal consultations entered into from fiscal years 1992 through 1999, but 11 were still in progress.

⁷For this calculation, we included 10 of the 11 projects that were still in progress. We did not include one project because the Carlsbad office could not determine the start date.

In testimony on September 14, 2000, the Service's Director stated that the Carlsbad office's management has stressed to its staff the expectation and need for meeting deadlines. The Director said that the Carlsbad office has hired additional biologists to help handle its consultation workload and is working to improve coordination with other federal agencies to clarify priorities and needs.

Some HCPs Exceeded the Service's Recommended Processing Times

The Service has no guidelines for how long it should take to complete an HCP. According to Service officials, most of the time spent on HCPs is needed by the applicant to develop the initial plan and then modify it to comply with the Service's guidelines before a field office can accept it as a completed application. However, once a regional office receives a complete application for its review and approval, the Service has established targeted time frames for the regional office to process the application. These time frames depend on the HCP's size, complexity, and potential impact.⁸ Specifically, as part of the requirements of the National Environmental Policy Act, an environmental impact statement (EIS) usually accompanies a large, complex, high-impact plan. A medium-size, medium-complex, medium-impact plan is often accompanied by an environmental assessment (EA), and a small, less complex, low-impact plan generally does not need either an EIS or an EA. The Service's targeted time frame for processing low-impact plans is less than 3 months from the receipt of a complete application; for plans of medium impact, it is from 3 to 5 months; and for high-impact plans, it is within 10 months. The Service allows these targeted processing time frames to be exceeded for reasons such as controversy regarding the project and staff or workload problems. Once a complete application is received, the Service notifies the public that it has a minimum of 30 days to review and comment on the HCP and any environmental impact analysis. If the regional office approves the plan, it issues an incidental take permit. In California and Nevada, the California/Nevada operations office issues the HCP and associated incidental take permits.

Since the HCP database contained many errors, it was not useful for determining how many plans exceeded targeted time frames. Therefore, we attempted to obtain from Carlsbad officials supporting information on

⁸On December 20, 2000, the Service informed us that it had dropped "complexity" as a criterion for determining recommended processing time frames because it constituted subjective data.

when the field office submitted its 40 HCPs to the Portland regional office, the HCPs' level of impact, and when the plans were approved. As of July 1999, 13 of the 40 plans in the database were still in process or had been withdrawn. Furthermore, the Carlsbad office could not provide the data needed to determine whether targeted time frames had been met for one plan. We used the data that we obtained for the remaining 26 plans and determined that the Portland regional office and the California/Nevada operations office did not meet the targeted time frames for 11 plans (42 percent) that it reviewed. The amount of time by which these dates were missed ranged from about 20 days to about 880 days. The time frames were missed by less than 2 months for five plans, between 4 and 10 months for three plans, and by more than 19 months for three plans. We did not conduct audit work at the Portland regional office or the California/Nevada operations office to determine why the processing time frames were not met. According to the Service, the processing times frames were not met because of the workload or complexity of the projects.

The Service noted that since the Carlsbad office was becoming increasingly involved in regional HCPs, it would become more difficult to meet targeted processing time frames. Regional HCPs are large efforts that involve multiple jurisdictions; provide coverage for a large number of listed and unlisted species; involve large acreage with significant development and habitat; and include participation by numerous landowners, developers, environmental groups, and other stakeholders.

Furthermore, the Service noted that because of concerns that the public did not have adequate time to comment on some HCPs, in June 2000, the Service extended its targeted processing time frames. Specifically, the targeted processing time frame for a medium-impact HCP was extended from 3-5 months to 4-6 months. For large-scale, regional, or exceptionally complex HCPs, the Service increased the minimum public comment period to 90 days unless significant public participation occurs during the HCPs' development. For HCPs with a 90-day comment period and/or an EIS, the Service extended the targeted processing time frame from 10 to 12 months. The targeted processing time frame for low-impact HCPs remained at up to 3 months.

The Service and the Carlsbad Office Do Not Gather Information on Why Consultations and HCPs Exceed Time Frames

The Service and the Carlsbad office do not gather information on why consultations and HCPs exceed recommended or targeted time frames. As a result, we attempted to determine why by analyzing 13 consultations and HCPs in detail. From our review of project files, however, we could not determine why it took so long to complete these projects. Specifically, key events, such as meetings between Carlsbad officials and an applicant were not always documented, and when documentation did exist, it did not always clearly explain the office's actions. Carlsbad officials, however, identified the following factors that they believe contribute to exceeding recommended time frames for completing consultations: (1) the heavy workload, (2) the inability to hire a sufficient number of staff, (3) the high rate of staff turnover, and (4) the agreed-upon extensions requested by the applicant or action agency to gather and analyze additional information. Since the Service's guidelines pertain only to regional office processing of HCPs, Carlsbad officials could not identify the reasons why targeted time frames were exceeded.

The Carlsbad Office Has a Large Workload of Consultations and HCPs

Southern California, where the Carlsbad office is located, has tremendous biological diversity and provides habitat for approximately 100 federally listed species. With a projected population of 19 million people, southern California is also one of the fastest growing regions in the United States. According to the Service's Director, because the development that accompanies population growth increases threats to endangered species, the Carlsbad office has one of the heaviest endangered species workloads in the nation.

The Carlsbad office's supervisor has recognized the demands of this increasing workload. In a February 5, 1999, memorandum to the Manager of the California/Nevada operations office, the supervisor explained that the office's consultation workload was projected to increase from 264 consultations in fiscal year 1998 to 341 consultations in fiscal year 1999—a 29-percent increase. Furthermore, predevelopment consultations were projected to increase from 900 in fiscal year 1998 to 957 in fiscal year 1999—a 6-percent increase. The memorandum also discussed the need to provide additional technical assistance and coordination on several key HCPs. The memorandum stated that the office's "ability to provide increased technical assistance to the local jurisdictions on priority HCPs and to expeditiously meet our Section 7 consultation requirements would be hampered without additional funding and staffing."

The Carlsbad Office Has Been Unable to Hire the Requested Level of Staff

Carlsbad officials stated that they have had problems with filling their staffing needs. For the 5 fiscal years 1996 through 2000, the Carlsbad office had an average of about 67 staff. During this period, the Carlsbad office requested an average of 89 staff to handle the increasing workload from development activities occurring in southern California. Therefore, the level of staff on board averaged about 25 percent below the requested levels.

For fiscal year 1999, the Carlsbad office requested about \$7.37 million to support 105.5 staff and justified this request primarily on the basis of escalating large-scale HCPs affecting multiple species and numerous smaller HCP commitments. However, the office was allocated about \$4 million, or \$3.37 million less than requested. According to a February 1999 memorandum from the Carlsbad Supervisor to the Manager of the Service's California/Nevada operations office, that year's funding allocation was "grossly inadequate to meet our needs, and will force us to forgo significant conservation opportunities unless a shift is made in our workload." The Carlsbad office sought approval from the operations office to shift some staff from recovery plan activities to regional HCPs that involved multiple species. In October 1999, the Carlsbad office informed the operations office that, as a result of its regional planning efforts, the completion of small-scale HCPs and a variety of consultations had been delayed.

Headquarters and regional officials informed us that generally, the Service has not been funded at its requested levels. As a result, each field office receives less than what it requests.

To offset some of the impact of this staffing shortage, Carlsbad officials stated that they managed their funding to allow them to fill some additional positions near the end of the fiscal year. Specifically, they used the salary savings obtained from high staff turnover and obtained some additional funds from the Portland regional office to help pay the salaries of these positions. For example, in fiscal years 1996 and 1997, the Carlsbad office had 20 and 11 more staff on board, respectively, than what the funding allocation for these fiscal years could originally support. Table 1 presents detailed information about staffing levels during fiscal years 1996 through 2000.

Table 1: The Number of Staff on Board, the Number Requested, and the Number of Staff Positions Funded, Fiscal Years 1996 Through 2000

Fiscal year	End-of-year on-board total	Staff requested	Positions funded	Difference between on-board and requested staff	Difference between funded staffing levels and requested
1996	64	Not available	44.0	Not available	Not available
1997	61	66.0	50.0	-5.00	-16.0
1998	57	76.0	63.0	-19.00	-13.0
1999	72	105.5	64.0	-33.50	-41.5
2000	81	108.5	77.0	-27.50	-31.5
Average	67	89.0	59.6	-21.25	-25.5

Note: On-board data include both career and temporary employees. Requested staff for fiscal years 1999 and 2000 include half-staff years.

Source: GAO's analysis of data provided by the Carlsbad office.

The Carlsbad Office Has Had Problems With Retaining Staff

From fiscal year 1997 through fiscal 2000, the Carlsbad office averaged about 13 staff losses per year, of which 10 staff (77 percent) were in nonclerical positions. Nonclerical positions include biologists, computer specialists, field and deputy field supervisors, geographers, and administrative officers. We found that the office's separation rate for nonclerical staff has been high when compared with Service-wide separation rates for nonclerical staff in the same job series. To illustrate, during fiscal year 1999, the Carlsbad office's separation rate for nonclerical staff was 26 percent, whereas the Service's separation rate for these staff was about 4 percent. Table 2 compares the separation rates of nonclerical staff at the Carlsbad office with those in the same job series at the Service for fiscal years 1997 through 2000.

Table 2: Separation Rates of Staff in Nonclerical Positions From the Carlsbad Field Office and the Fish and Wildlife Service, Fiscal Years 1997 Through 2000

Fiscal year	Carlsbad Field Office ^a			Service-wide ^a		
	Total on-board staff at the year's beginning	Staff departures during the year	Separation rate	Total on-board staff at the year's beginning	Staff departures during the year	Separation rate
1997	42.00	5	11.9%	1,431	61	4.3%
1998	50.00	12	24.0%	1,517	52	3.4%
1999	50.00	13	26.0%	1,664	67	4.0%
2000	61.00	10	16.4%	Not available	Not available	Not available
Average	50.75	10	19.7%	1,537	60	3.9%

Note: Data are for career employees only. Service-wide data exclude Carlsbad data.

^aComparison between Carlsbad field office and Service-wide nonclerical positions is of staff in the same job series. Nonclerical positions include biologists, computer specialists, field and deputy field supervisors, geographers, and administrative officers.

Source: GAO's analysis of data provided by the Carlsbad office and the Office of Personnel Management's Central Personnel Data File.

Carlsbad officials noted that the high turnover rate was exacerbated by the loss of biologists—who are key to handling most of the office's workload—and the loss of experienced staff. For fiscal year 1999, we estimated that the average separation rate of career biologists in the Carlsbad office was about 17 percent compared with 4 percent Service-wide. Furthermore, of the 35 staff who left the Carlsbad office over the past 2 years, about 46 percent were experienced. Carlsbad officials stated that the loss of the experienced staff puts added pressure on supervisors and managers who have to train new staff while responding to an increasingly heavy workload.

Carlsbad officials said that several factors have contributed to the office's high staff turnover. Specifically, many employees cannot afford housing in the Carlsbad area and, as a result, they have long commutes to and from work. Moreover, because the office hires biologists at the GS-9 through GS-11 levels of pay, it is extremely hard to get recruits from inside the government to come to Carlsbad. The biologists hired have little training in the federal consultation and habitat conservation planning processes, which initially limits their effectiveness. In addition, as quickly as they become trained, other Service offices are recruiting them because they have the reputation of being able to work well under the pressures associated with a heavy workload and endangered species issues. Furthermore, staff shortages compound the workload problem and eventually cause the existing staff to seek other employment

opportunities. Carlsbad officials also noted that the Service does not use incentives to retain staff. For example, they stated that other federal agencies use retention bonuses to keep staff.

In testimony in September 2000 before the House Committee on Resources, the Service's Director indicated that the Carlsbad office had hired additional staff to improve the office's ability to complete consultations and review related environmental documents for other federal agencies and parties. The Director confirmed that (1) the ability to retain experienced biologists is, among other things, impaired by heavy workloads and the high cost of living in southern California and (2) employees at the Carlsbad office gain invaluable experience, training, and skills, which are actively sought by and recruited by other field offices. In fiscal year 2000, seven biologists left the Carlsbad office for other career opportunities.

Time Frame Extensions Can Be Approved

Under the Endangered Species Act and its implementing regulations, formal consultations generally are to be concluded and a biological opinion issued in 135 days. This includes 90 days to complete the consultation and 45 days to issue the final biological opinion. However, the act and its regulations allow for consultation time frames to be extended. If the consultation is only between the Service and another federal agency, the two agencies may mutually agree to extend the consultation. The act and its implementing regulations do not limit the length of this extension and, according to Service officials, these extensions can go on for long periods of time. However, if the consultation with a federal agency involves a third party (e.g., a landowner or developer), the Service must notify the applicant of the extension. The notification must state the reasons why a longer period is needed, the information that is required to complete the consultation, and the estimated date for completing the consultation. A consultation involving an applicant cannot be extended for more than 60 days without the applicant's consent.

In the Carlsbad office, the reasons for extending consultation time frames include (1) the office's need for more time to analyze the data it received from a federal agency or to prepare the final biological opinion or (2) the other federal agency's need for more time to provide data or review the draft biological opinion. In two of the formal consultations we reviewed, the Carlsbad office obtained extensions to review information that the applicant submitted and to prepare the biological opinion. The Service extended the consultations by about 4 months for one project and 2-1/2 months for the other.

The Service also has established targeted time frames for processing HCPs, which can also be extended for such issues as controversy regarding the project or staff or workload problems. We focused our review on the operations of the Carlsbad field office. Since HCP processing is conducted jointly by the field office and the regional office, we did not conduct audit work to ascertain the reasons why HCPs were not processed within the targeted time frames.

The Service's Guidance and Carlsbad's Implementation of the Customer Complaint Program Could Be Improved

Executive Order No. 12862 (dated Sept. 11, 1993) established and implemented customer service standards to guide the operations of executive branch agencies. The standards are to ensure that the federal government provides the highest quality service possible to the American people. According to the executive order, all executive departments and agencies that directly provide the public with significant services shall, among other things, post customer service standards and measure results against them; make information, services, and complaint systems easily accessible; and provide a means to address customer complaints. To comply with the President's initiative, as part of the National Performance Review (NPR) efforts, teams of staff from various federal government agencies embarked on a series of benchmarking studies, one of which was to determine which businesses—public and private—are doing the best job of customer complaint resolution. The best complaint systems identified had, among other things, processes to make it easy for customers to complain through customer help telephone lines, 1-800 numbers, or complaint/comment cards. The best systems also had fully automated and integrated information systems in which to enter complaint data that can be analyzed and used to identify and fix root causes of the dissatisfaction and determine the future direction for product and service improvements.

To implement the requirements of Executive Order No. 12862, the Service issued Customer Service Policy 96-02 (effective, Aug. 6, 1996). According to the policy, all of the Service's employees are expected to fully comply with the spirit and intent of the standards that were established to guide their actions as public servants. The policy establishes six standards—among them is that (1) customers be treated with courtesy and responded to in a timely and professional manner and (2) employees maintain a professional appearance and positive attitude. However, the Service's policy does not address how to handle customer complaints or how to make information services and complaint systems easily accessible to customers, as directed by the executive order.

Despite this lack of guidance, Carlsbad officials said that they take complaints seriously, and they have established an informal system for handling them. Specifically, the office accepts customer feedback in various forms, including letters, E-mail, in-person meetings, and telephone calls. According to the Carlsbad officials, complaints are routed to the supervisor of the affected employee or to the branch or division chief that has responsibility for the specific project. Depending on the nature of the complaint, the line supervisor may elevate the action to senior management or handle the complaint directly. Supervisors maintain their own files for the complaints they handle. The types of complaints that the office receives vary. For example, some complaints stem from misunderstandings. When a complaint is more serious, such as an employee's treating a customer harshly or in an unprofessional manner, the immediate supervisor has the responsibility to counsel the affected employee and identify corrective actions. Carlsbad officials stated that supervisors may or may not document these types of complaints. However, if a supervisor receives recurring complaints about an employee's performance and conduct, the supervisor is to address the issue through the employee's annual performance plan, which has indicators relating to quality of work, teamwork, and customer service. An employee who does not perform the critical elements related to these indicators can be placed on a performance improvement plan, which is a prerequisite for a reduction in grade or removal.

The Carlsbad office's informal customer complaint system does not record and classify data on complaints so they can be analyzed and used to identify trends and solutions to common problems. Instead, Carlsbad management relies on being apprised of complaints in weekly supervisor and staff meetings. Management also relies on the supervisors, who handle the complaints, to identify any patterns or frequency of complaints against specific employees. However, Carlsbad officials said that each supervisor might track complaints differently. The Carlsbad office also does not have standard documentation requirements or a centralized filing system for the complaints it receives.

The Service stated that it has been working to improve its customer service program. Specifically, the Service has designated the development of a customer feedback process as a critical component of its Strategic and Annual Performance Plans prepared under the Government Performance and Results Act. The Service has also placed a site on its Webpage, where customers can voice concerns or provide comments. An additional Website is offered by the Service's Midwest region.

Furthermore, although not required, the Service has been working with the Department to create a centralized customer complaint system.

The Service noted that the Department established a task force to recommend ways to improve its customer service. The task force recommended that the Department establish an automated database system that would capture, track, and report on customers' complaints Department-wide. According to the Service, this proposed on-line information system would be designed to support the performance of the front-line staff who interact with customers and assist them in answering customers' inquiries quickly and accurately. The system would compile complaint information electronically in order to better align services to meet customers' expectations. A complaint data report would be generated for managers to indicate the root cause of complaints, when a complaint is resolved, and related statistics. Service officials said they fully support this Department-wide proposal and believe that an integrated database system reduces the duplication of multiple customer systems across the bureaus and allows for a broader understanding of customer expectations on services and products offered by the Department of the Interior.

Conclusions

The Carlsbad office is developing a computerized project-tracking system for its consultation and HCP projects. This system, if properly implemented, should improve the office's record keeping and its ability to track the status of projects and help determine why they are in that status. Accurate information on the office's workload should also help the office justify its staffing and budget requests. The new system could also improve project management by allowing office managers to determine how long an applicant has been involved in the consultation or HCP process and whether the recommended time frames for completing consultations and the targeted time frames for processing HCPs have been exceeded. Also, although the Fish and Wildlife Service has no requirements for how its field offices track their workload, if the new tracking system is successful, other field offices might want to use it to obtain the same benefits.

Although the new tracking system will potentially contain much needed information on the status of a project, project files need to be maintained to document and confirm that the data in the system are correct. The Carlsbad office does not maintain its project files in accordance with federal internal control standards and the Service's guidelines. Currently, project files are located in three different buildings instead of being centrally located and readily available for examination. Furthermore,

project files often do not contain a complete history of the project, including written documentation of the proposals and the agreements reached between the office and its applicants or other federal agencies. Without this information, there has often been confusion between the office and its customers on what was agreed to and why. In addition, without adequate documentation, managers and others have a difficult time determining whether the status of a project is justified. For example, if the Service and an applicant agree upon an extension of time to complete a consultation and that information is not in the files, managers may not know that the reason why a project exceeded recommended time frames was justified and supported. The Service has also embarked upon an effort to have its offices periodically verify and correct the information in its nationwide HCP database.

Although installing a new tracking system and verifying the HCP database are steps in the right direction, these initiatives do not address the Carlsbad office's ability to complete its consultations and HCP projects within the recommended or targeted time frames. The Carlsbad office will still have difficulty accomplishing this if it is not able to do something about its staffing problems. An inability to hire new staff and retain existing, experienced staff has made it difficult for the Carlsbad office to meet the demands of its workload.

Finally, the Service's customer service policy does not address how to handle complaints or how to make complaint systems easily accessible to its customers, as discussed in Executive Order No. 12862. Although the Carlsbad office has developed an informal process for handling customer complaints, this process does not ensure managers that all complaints received are directed to the proper office personnel and are properly resolved. It also does not ensure that complaint data are centrally collected and analyzed to help ensure that root causes of the dissatisfaction are identified and fixed. Furthermore, Carlsbad's informal process does not include procedures for recording and documenting complaints and their resolution. The Service stated that neither it nor the Department has a centralized customer complaint system but one has been recommended for Department-wide implementation when funds become available. The Service agrees with the need to improve its customer service program but would prefer to support the Department-wide proposal, which, it feels, would reduce the duplication of multiple customer service systems across Interior's various bureaus.

Recommendations for Executive Action

To improve the Service's overall operations, including customer service, and specifically the operations of its Carlsbad field office, we recommend that the Secretary of the Interior direct the Director, Fish and Wildlife Service, to do the following:

- Ensure that the Carlsbad field office's new computerized project-tracking system for consultations and HCPs is properly implemented and that procedures are developed to periodically review the data to determine that they are promptly and accurately entered.
- Assess whether a computerized project-tracking system, such as the one being implemented in the Carlsbad office, will allow consistency and accuracy in obtaining and reporting information on the status of consultations and the HCP workload and, if so, consider whether such a system should be implemented Service-wide.
- Ensure that the Carlsbad field office complies with federal internal control standards by centrally locating all files on consultations and HCPs. Furthermore, the Carlsbad office should develop procedures to periodically review these files to determine if they contain the complete history of the projects, including documentation of all agreements between the applicant and the Service.
- Identify and assess options for improving the Carlsbad office's ability to hire and retain staff.
- Revise its customer service policy to include specific requirements for a customer complaint system and make that system easily accessible to the public. Furthermore, if the development of a Department-wide customer complaint system does not proceed, the Service should implement its own system. This system should include, at a minimum, requirements for written procedures on how complaints will be received, directed, resolved, and documented. The system should also provide for complaint data to be centrally collected and analyzed to ensure that the root causes of dissatisfaction are identified and fixed. In addition, the Service's system could be used as a pilot or model for a Department-wide system.

Agency Comments and Our Evaluation

We provided the Department of the Interior with a draft copy of our report for comment. The Department generally agreed with the findings and supported the recommendations of the report. Its letter commenting on the report appears in appendix III. The enclosure to the Department's letter (which is not included in app. III) made several technical and clarifying comments, which we incorporated into the report as appropriate. In its comments, the Department stated that the Service has already initiated actions on some of the report's recommendations and is actively considering actions to implement the other recommendations.

Specifically, the Carlsbad office has implemented a computerized project-tracking database that is integrated with a centrally located filing system for fiscal year 2001. In addition, the Carlsbad office is developing quality control standards for the tracking system to ensure prompt and accurate data entry, periodic reviews of the database and files, and training on the use of the database. The Department stated that the Carlsbad project tracking system would need to be evaluated and compared with other field office systems to determine whether it, or something similar, can be used to provide more consistency in tracking workload throughout the Service. In addition, the Carlsbad office has identified several mechanisms to improve the documentation of agreements between applicants and their office and is working to streamline recruitment and identify incentives to retain experienced staff biologists. Finally, the Department stated that the Service plans to review its customer service policy for appropriate revisions in accordance with applicable departmental requirements.

In its comments, the Department also raised a concern about our analysis of the number of formal consultations that exceeded the recommended 135-day time frame. The Department stated that although the report appropriately recognizes that some of the consultations could have agreed-upon extensions and therefore could have been completed within allowable time frames, the report did not attempt to assess the degree to which consultations were late. The Department stated that on the basis of the Carlsbad office's analysis of 20 biological opinions issued from 40 to 60 days after the 135-day formal consultation time frame, 8 (40 percent) should not be considered late. Specifically, one consultation had an approved time extension; another was initiated without the required information; two received information needed to complete the consultation after it was initiated, and the Service would have been justified in requesting an extension; for one consultation, the applicant was provided with a draft biological opinion within 35 days of its initiation; and for three consultations, we did not have correct initiation and completion dates. Our report states that we did not attempt to determine how many consultations had agreed-upon time extensions. The purpose of our analysis was only to demonstrate how many consultations exceeded the 135-day time frame—not the number of days and not whether the additional time was justified. The fact remains that the Carlsbad office had the wrong information recorded in its logs for all eight projects.

The Department also said that we should more clearly indicate that the time frames for processing HCPs are only targets and that given the complexity of the projects in the Carlsbad office, it would not be unusual for some projects to exceed these time frames. While we see little

practical difference between recommended time frames and time frame targets, we revised our report to use this terminology. Our report already stated that the Service allows the time frames to be exceeded for such reasons as project controversy and staff or workload problems.

Scope and Methodology

To determine how the Carlsbad office tracks its workload of consultations, we reviewed the logs that the Carlsbad office maintained for fiscal years 1992—the first year that the Carlsbad office began operating—through 1999. We also discussed with Carlsbad officials how these logs were utilized and maintained during this period. We reviewed the logs for both informal and formal consultations.

We analyzed the completeness of the information in the logs by ascertaining whether the logs identified the dates when the informal or formal consultations began and were completed. In agreement with your offices, we did not include formal consultations that occurred internally within the Fish and Wildlife Service, such as consultations with a Service wildlife refuge.

To assess the accuracy of the information on the logs, we used statistical sampling. Specifically, we selected the entries for 30 informal and 30 formal consultations that had been logged with both beginning and completion dates and reviewed the Carlsbad office's files to verify that documentation existed to support those dates. In addition, we provided Carlsbad officials with a list of formal consultations that did not have beginning and/or completion dates on the logs. Our purpose was to get as many dates as possible so we would have better confidence in estimating how long it takes to complete formal consultations. Lastly, we sampled the entries for 30 informal consultations that did not have the beginning and/or completion dates recorded on the logs to determine whether documentation existed in the files to support a date. The sampling error associated with our estimates is discussed in appendix II.

To determine how the office tracks its HCP workload, we started by obtaining a computer printout for each plan in the Service's nationwide HCP database that had been processed through the Carlsbad office. To assess completeness, we reviewed the printout to ascertain if three key dates—the date the process began, the date the regional office received a complete application package from the Carlsbad office, and the date that the process was completed with the issuance of an incidental take permit—were recorded in the database. To assess the accuracy of the database's information, we asked Carlsbad officials to provide us with

documentation supporting these three key events and compared the dates on the documents with the dates in the database.

To determine the extent to which the office is complying with the Service's recommended time frames for completing formal consultations, we used the 30 sampled formal consultations from the Carlsbad logs and calculated the time expended between the beginning and completion dates. We separately calculated the time expended for the remainder of the consultations recorded on the logs, including those consultations for which Carlsbad officials subsequently provided dates. We compared the results of our calculations for the 30 samples with the other calculations and determined that there were no statistically significant differences between them. Because the differences were not statistically significant, we used the logs to calculate the length of time taken to complete formal consultations for the entire universe of those for which we had beginning and completion dates.

We also determined whether the Service's targeted time frames for processing HCPs submitted by the Carlsbad office were being met by the Portland regional office. To accomplish this, we calculated the amount of time it took to process each HCP using the information we obtained from the Carlsbad office on the date when the regional office received an approved information package from the Carlsbad office and the date when the process was completed with the issuance of an incidental take permit. We then obtained information on the HCP's potential impact from the Carlsbad office and determined whether the plans met the Service's targeted processing time frames for that type of HCP.

To determine why some consultations did not meet recommended time frames, we reviewed 13 projects that were among those that took the longest time to complete. We examined the files of each project to ascertain if they contained information indicating why the consultations took so long. Because of a lack of information in the project files, we were unable to make this determination. We discussed this issue with Carlsbad officials, who identified several factors that they believe contribute to their office's inability to meet recommended time frames.

To assess how staffing at the Carlsbad office affected the length of time it took to complete consultations and process HCPs, we held discussions with Carlsbad officials about their staffing needs and how the office justified them in its budget requests. We also obtained and reviewed copies of budget requests for fiscal years 1998 through 2000 that the Carlsbad office submitted to the California/Nevada operations office and

the Portland regional office. In addition, we obtained data on the amount of funds the Carlsbad office received from the Portland regional office for staffing and compared funded levels with those requested. We discussed staffing shortages at the Carlsbad office and factors that contribute to the office's ability to hire and retain staff. For fiscal years 1997 through 2000, we calculated and compared the annual separation rates of career staff in selected positions (1) at the Carlsbad office, using data provided by the Carlsbad office, and (2) at the Service, using the Office of Personnel Management's Central Personnel Data File.

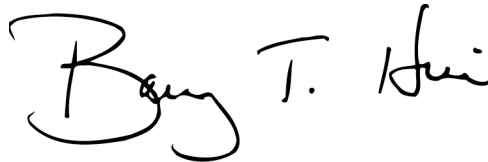
To determine if the Carlsbad office has a system for registering and resolving complaints by customers, we reviewed Executive Order No. 12862, NCR's report entitled *Serving the American Public: Best Practices for Resolving Customer Complaints*, and the Service's policies and procedures for dealing with customer service and complaint systems. We also discussed customer service policies with the Service's headquarters officials and discussed how the office handles complaints with Carlsbad officials.

Finally, we obtained detailed information on three projects to illustrate the concerns of individuals who have either sought consultations or applied for permits from the Carlsbad office and to gain the field office's perspective on these concerns. We held discussions with the individuals that raised the concerns on these projects and reviewed the documentation they provided. With their permission, we discussed their concerns with Carlsbad officials and obtained the field office's perspective on them. We also obtained and reviewed supporting documentation for the positions that Carlsbad staff had taken on these projects.

We discussed the results of our work with officials from the Carlsbad field office, the California/Nevada operations office, the Portland regional office, and Service headquarters. We conducted our review from February 2000 through January 2001 in accordance with generally accepted government auditing standards.

As arranged with your offices, unless you publicly announce its contents earlier, we plan no further distribution of this report until 30 days after the date of this letter. At that time, we will send copies of this report to the Secretary of the Interior; the Director, Fish and Wildlife Service; the Director, Office of Management and Budget; and other interested parties. We will make copies available to others upon request.

If you or your staff have any questions, please call me at (202) 512-3841.
Key contributors to this report are listed in appendix IV.

A handwritten signature in black ink that reads "Barry T. Hill". The signature is written in a cursive style with a large, looping initial "B".

Barry T. Hill
Director, Natural Resources
and Environment

Appendix I: The Carlsbad Office's Position on Concerns Raised About Three Projects

We spoke with 25 individuals who were involved in consultations regarding section 7 of the Endangered Species Act or had applied for incidental take permits under the habitat conservation planning (HCP) process from the U.S. Fish and Wildlife Service's Carlsbad field office. These individuals had expressed concerns about the Carlsbad office's operations. We asked many of these individuals to discuss their concerns with us, provide us with supporting documentation, and let us obtain Carlsbad officials' perspective on these concerns. However, only three individuals provided supporting documentation and consented to this discussion. These individuals were involved with the following projects: (1) the development of a golf course and resort and its affect on the Peninsular bighorn sheep, (2) the construction of a residential community and its affect on the coastal California gnatcatcher,¹ and (3) a utility company's maintenance operations and its affect on the Quino checkerspot butterfly. For each of these three projects, Carlsbad officials provided us with explanations, documentation, or scientific justification for their actions.

First Project: Impacts of a Proposed Golf Course and Resort Development on Peninsular Bighorn Sheep

A development company wanted to build a golf course and resort community outside of Palm Springs, California. To obtain municipal, county, state, and federal approval for the project, the developer was required to address multiple environmental issues. Several of these issues focused on the project's impacts on federally listed endangered species, including the desert tortoise, the southwestern willow flycatcher, and the desert slender salamander as well as the Peninsular bighorn sheep. When the developer initially proposed the project, the Peninsular big horn sheep was listed by the state of California as threatened and was proposed to be federally listed.² Although the developer had to consider impacts on several species, the concerns he shared with us focused on Peninsular bighorn sheep.

Before construction on the project could begin, the developer needed to obtain a Clean Water Act section 404 permit from the U.S. Army Corps of Engineers (Corps) because of the project's anticipated impacts on waters of the United States. The Corps, in turn, determined that the project could affect federally listed and proposed species. Therefore, in accordance with

¹The coastal California gnatcatcher is a small bird that inhabits scrub vegetation in southern California.

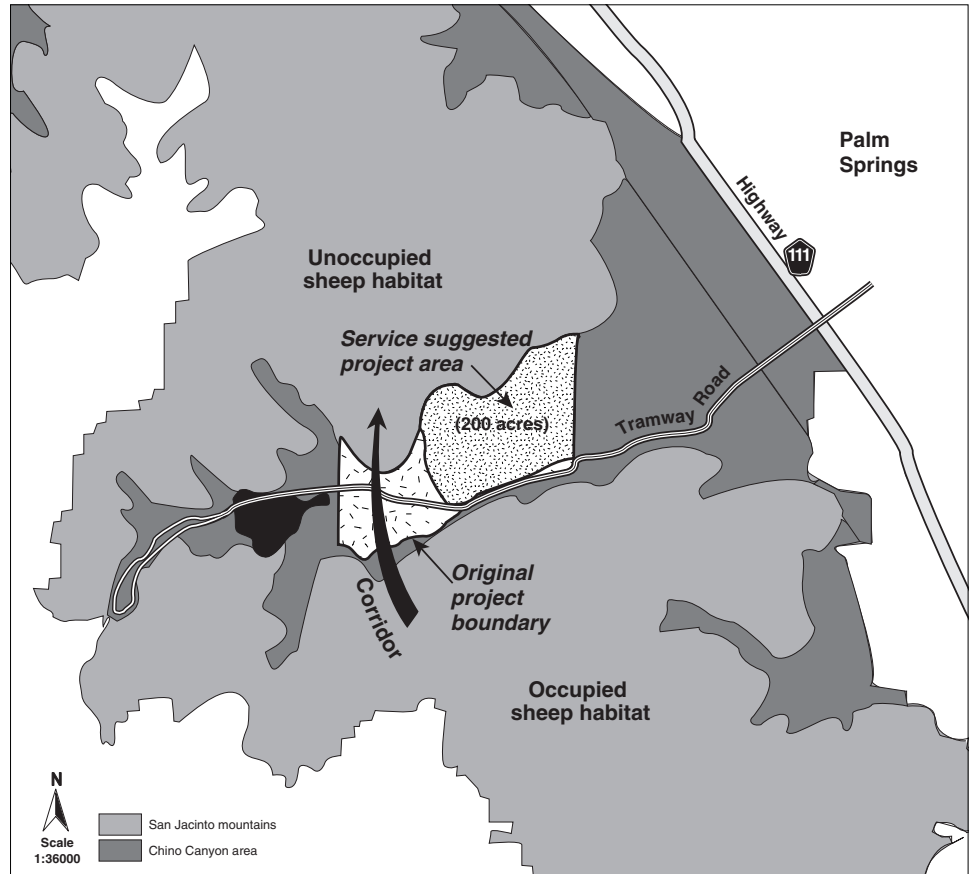
²The Service listed the Peninsular bighorn sheep as endangered on March 18, 1998.

the Endangered Species Act, the Corps was required to initiate a section 7 consultation with the Service to determine whether the project's impacts would jeopardize the continued existence of the listed species.

The developer had four primary concerns regarding how the Service handled the Corps' consultation. First, the developer was frustrated over the time it had taken to move the project forward and did not agree with the Service's jeopardy determination regarding Peninsular bighorn sheep that was conveyed in a conference opinion to the Corps.³ Second, the developer believed that the reasonable and prudent alternative that the Service offered to avoid the jeopardy determination was not technologically or economically feasible. Third, the developer was frustrated that Carlsbad officials had required him to complete several redesigns of the project to comply with concerns about the project's impacts on Peninsular bighorn sheep but then rejected each revision. Fourth, the developer believed that the sheep would not use his property regardless of the project's configuration because heavy traffic on the road adjacent to his project already deterred sheep from crossing the road to habitat on the other side of the project site. Figure 3 is a map of the general project area that illustrates many of the following issues.

³Section 7(a)(4) was added to the act to provide a mechanism for identifying and resolving potential conflicts between a proposed action and a proposed species or proposed critical habitat at an early planning stage. A conference is required only when a proposed action is likely to jeopardize the continued existence of a proposed species or adversely modify proposed critical habitat. However, federal action agencies may request a conference on any proposed action. The Service can also request a conference after a review of available information suggests that a proposed action is likely to jeopardize a proposed species or adversely modify proposed critical habitat. A formal conference results in a determination, called a "conference opinion," that communicates the Service's position on whether a proposed action is likely to jeopardize the continued existence of a proposed species.

Figure 3: Map of Initial Project Boundary and Service Suggested Project Area, Peninsular Bighorn Sheep Movement Corridor From Occupied to Unoccupied Habitat, and the Project's Proximity to Tramway Road



Source: GAO's representation of map provided by the Service.

Jeopardy Determination

The developer maintained that the project plan that he submitted to the Service adequately addressed any adverse impacts on Peninsular bighorn sheep even though he did not believe that the species resided on his property. He also maintained that expert biologists supported his position that the golf course would not pose a significant danger to the long-term survivability of the sheep. He believed that his project plan addressed all the requirements outlined in a court supervised settlement agreement that resulted from a lawsuit filed by the California Department of Fish and Game regarding the project's impacts on the sheep. Consequently, he did not believe that any more project modifications were necessary. Finally,

he claimed that he had been in negotiations with the Service for 8 years without resolution of these issues.

According to Carlsbad officials, the jeopardy determination was reviewed and supported by the Portland regional office, which signed the conference opinion. In 1997, eight herds of female Peninsular bighorn sheep existed in the United States, and each was considered critical by the Service for maintaining the viability of the entire population (then about 280 sheep). The jeopardy determination was based on the Service's conclusion that the project would likely result in an overall reduction of about 14 percent (40 of 280) of the U.S. Peninsular bighorn sheep population. Carlsbad officials explained that the project, as submitted, would lead to the demise of the only remaining herd of big horn sheep in the San Jacinto Mountains (about 19 sheep). Carlsbad officials concluded that the loss of this herd would also likely lead to the loss of a biologically viable herd located just south of the San Jacinto Mountains herd in the neighboring northern Santa Rosa Mountains (about 21 sheep). Carlsbad concluded that the loss of two of the eight herds of Peninsular bighorn sheep in the United States—a 25-percent reduction on the total number of herds—would reduce the chances for the population's recovery and eventual delisting. According to Carlsbad officials, this would occur because of decreases in the genetic diversity of the population, the number of sheep available for movement between herds, and the ability for the herds to expand their range.

The Service concluded that the development would fragment valuable sheep habitat into at least two relatively isolated habitat areas, interfere with sheep dispersal, and sever the connection to important unoccupied habitat that the Service believes is needed to sustain the herd over time. Specifically, Service officials maintained that for large mammals, such as the Peninsular bighorn sheep, to avoid extinction at a regional scale, the movement of individuals must be sufficient enough to allow the species to repopulate areas where local extinction has occurred. The Service maintained that the project would reduce the ability of the sheep to access important mountain slopes, canyon bottoms, water sources, and forage areas, thereby reducing the likelihood for sheep range expansion and population recovery.

Finally, because the project would establish a hotel, among other structures, the Service anticipated that increased fire suppression practices would occur over the life of the project and would result in the sheep's eventual abandonment of the habitat. Carlsbad officials provided biological evidence suggesting that increased fire suppression practices

associated with human development are one of several factors leading to the abandonment of habitat by bighorn sheep and has been associated with the loss of sheep herds in other areas, such as Arizona. Bighorn sheep show a strong preference for habitats providing good visibility because they provide the sheep with the greatest security from predators. Fire suppression causes brush to accumulate over time and reduces visibility for the sheep.

The developer stated that biological experts supported his position that the project would not adversely affect the sheep. However, Carlsbad officials presented us with a letter from one of the biological experts that the developer had used to support his claim. The expert wrote that because some of his comments had been misrepresented and projected out of context by the developer, he was unwilling to become more involved in the project. Furthermore, the letter stated that the project was clearly situated within the sheep's habitat.

We spoke with two of the three experts who consulted with the developer about the project. Both stated that although their involvement with the project was limited, the project was situated within the sheep's habitat. However, because the area had already been heavily affected by previous development, they would not recommend sheep conservation in the area. Additionally, both experts agreed that the heavily used road adjacent to the project boundary was a major factor contributing to the poor quality of the habitat. Finally, neither expert knew how the development project would affect the overall population of Peninsular bighorn sheep, but they agreed that the herd located close to the proposed development project was already dwindling because of previous development.

The developer believed that he had fulfilled his requirements to protect the sheep in the court-supervised settlement agreement with the California Department of Fish and Game. Carlsbad officials stated that the Service had no jurisdiction over the project at that time. In reviewing the settlement agreement, we found that the Service was not a party to the agreement. The agreement was between the developer and the California Department of Fish and Game. When the Carlsbad office became involved in the project through the section 7 process, it did not agree with some of the conditions of the settlement agreement. These disagreements included concerns about the configuration of the project site and its effects on the sheep's movement. Finally, Carlsbad officials explained that the developer had been involved in a larger process that included many other stakeholders, such as the City of Palm Springs and the California Department of Fish and Game, for about 8 years. They also provided

documentation showing that the Carlsbad office's involvement under the section 7 consultation process had been ongoing for about 2 of those years. They explained and provided documentation showing that the Carlsbad office's involvement before this time was in the form of technical assistance to other stakeholders.

Service's Alternatives to Avoid Jeopardy

The developer believed that the reasonable and prudent alternative that the Service offered to avoid the jeopardy determination was not technologically or economically feasible.⁴ Included in the Service's alternative were requirements for the developer to reduce and reconfigure the acreage associated with the project, fence the perimeter of the project, and establish a \$500,000 management endowment for establishing sheep habitat and monitoring, and researching and enhancing the San Jacinto Mountains herd. The developer maintained that it was not possible to develop the golf course within the area recommended by the alternative because part of the golf course would have been in a "no-development" zone as mandated by the settlement agreement with the California Department of Fish and Game. Furthermore, the developer stated that the alternative's requirement to construct a fence around the project was in direct violation of the settlement agreement. He was also concerned that the Service could not explain the basis for a \$500,000 endowment fund for research and the preservation of the sheep.

Carlsbad officials believed that the proposed outline of the project's boundary allowed the developer to fulfill the project's basic purpose. In analyzing the settlement agreement, we found language stating that the developer "shall not disturb any land designated 'No Development' ...except to comply with conditions of approval imposed by the City or other governmental entity...." Carlsbad officials agreed that a small portion of the alternative included an area within the no-development zone designated in the settlement agreement. They explained that if the developer had accepted the alternative, the Service would have modified the alternative so that the project would have fallen completely within the development zone.

⁴Where the Service finds jeopardy, the Service and the federal agency involved in the consultation engage in a series of exchanges designed to develop alternative actions to allow the action agency to fulfill its intended purpose without causing jeopardy. The results of these exchanges are called "reasonable and prudent alternatives."

The developer asserted that the fencing requirement proposed in the Service's alternative violated the settlement agreement. Furthermore, he did not understand the basis for requiring a \$500,000 preservation and research endowment fund for the sheep. We reviewed the settlement agreement and did not find any requirements that specifically precluded fencing the project area and Carlsbad officials maintain that a fence around the project site was necessary to prevent sheep from accessing the developed property. Regarding the endowment fund, Carlsbad officials stated that no separate estimate was made to establish its amount. However, they stated that the amount was commensurate with other development projects of similar size and scope. Currently, the Service uses a computer software program to determine amounts of endowment funds. Carlsbad officials stated that they did not recalculate the fund's amount with the software because the developer's project is not currently under the Service's jurisdiction.

Project Revisions

The developer said that Carlsbad officials had required him to redesign the project's plan several times to address the project's impacts on Peninsular bighorn sheep. The developer told us that each time he redesigned the plan, Carlsbad officials rejected the revisions and required additional changes. Carlsbad officials stated that the only redesign that the office had requested was the one included in the conference opinion as a reasonable and prudent alternative. They believed that any other redesigns were the result of city and state requirements. During our investigation, we asked the developer for a list of the changes to the project plan, who requested them and when, and an itemization of the costs associated with having the plan revised. We were not provided with this information despite repeated requests. Consequently, we cannot confirm how many times the project was redesigned or who requested the changes.

Road Impediments to Sheep Movement

The developer stated that experts maintain that the sheep would not use his property regardless of the project's configuration because of heavy traffic on the road adjacent to the land. The developer stated that experts believe this road already deters the sheep from crossing the road to access additional habitat on the other side of the project's site. Specifically, the developer stated that a tramway tourist attraction located at the end of the road results in traffic of about 1,000 cars per day. Carlsbad officials agreed that vehicular traffic deters sheep from using habitat and provided us with evidence linking traffic with sheep deaths by collision. However, they believe that the habitat located in the vicinity of the proposed project site is critical because it provides the only opportunity for sheep to disperse

into important unoccupied habitat. Carlsbad officials stated that the project, as submitted, would increase vehicular traffic and provided us with documentation indicating that increased vehicular traffic has been associated with the sheep's decreased use of habitat. To reduce these concerns, the Service's conference opinion suggested strategies to reduce the effects of increased traffic along that road. Carlsbad officials also provided evidence demonstrating that the office is currently evaluating alternatives to reduce the impact that tramway traffic has on sheep.

Current Status

On April 6, 2000, the Corps rescinded its authority over the development project because it determined that the project would not affect waters of the United States and that, therefore, a Clean Water Act section 404 permit was not required. As a result, the Corps had no need to consult with the Service on endangered species and the consultation was terminated.

Second Project: Impacts of a Proposed Residential Development on the Coastal California Gnatcatcher

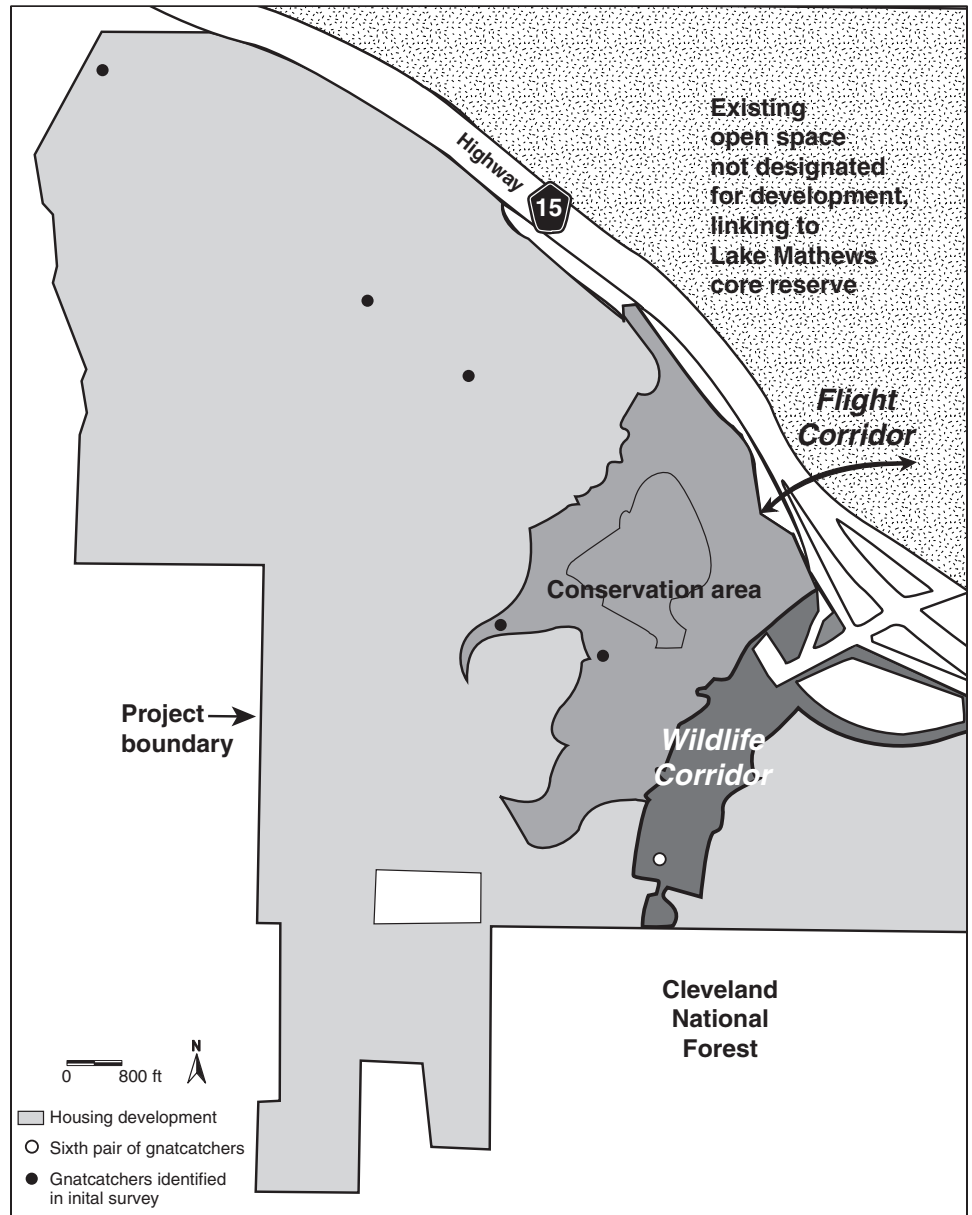
In the second project, a developer plans to build a residential community on 715 acres of land located adjacent to a major highway in Riverside County, California. This land is situated between two large, established conservation areas—the Cleveland National Forest and the Lake Mathews Multispecies Habitat Conservation Plan. The developer has a county-approved development plan and a state-certified environmental impact report. However, before any construction can begin, the developer needs to obtain a Clean Water Act section 404 permit from the Corps because of the project's anticipated impacts on waters of the United States. During the 404 permitting process, the Corps determined that the project could affect some federally listed species. To comply with the Endangered Species Act, the Corps initiated consultation with the Service in 1999 to determine the extent of the project's impact on those species at the site. While the developer has to address impacts on the coastal California gnatcatcher and the Munz's onion, his concerns were primarily attributed to issues involving the gnatcatcher. At the time of our review, the Corps was involved in an informal consultation with the Service about this project.

The developer had three primary concerns with how the Service was handling the Corps' consultation. First, the developer disagreed with the Carlsbad office's position that he offset for impacts on six pairs of gnatcatchers because his biologist had identified only five pair during biological surveys of the project's site. Second, the developer believed that the Carlsbad office's suggestion that he conserve land on-site to complete a flight corridor for the gnatcatchers was inappropriate because these

**Appendix I: The Carlsbad Office's Position on
Concerns Raised About Three Projects**

birds were not sighted in the vicinity of the proposed corridor during the biological surveys. Third, the developer believed that the Carlsbad office was over extending its authority by requesting that a habitat corridor be preserved on the project site for use by species that were not federally listed. He said that all these actions would require a redesign of the project, which would reduce the number of houses that could be built and cause significant revenue losses. Figure 4 is a map of the project area that illustrates many of these issues.

Figure 4: Map Illustrating the Location of the Sixth Pair of Coastal California Gnatcatchers Compared With the Other Five Pairs, the Flight Corridor, and the Wildlife Corridor



Source: GAO's representation of map provided by the Service.

Offsetting Measures for Six Pairs of Gnatcatchers

The developer explained that when his biologists initially conducted biological surveys on the project site, only five pairs of gnatcatchers were identified. These surveys were in compliance with the Service's protocols and had been initially accepted by the Carlsbad office. However, during an on-site field visit attended by Carlsbad officials, a Service biologist and the developer's biological consultant sighted a pair of gnatcatchers on the developer's land in an area where the birds had not been previously sighted. This area was directly adjacent to other land that was anticipated to have gnatcatchers on it. The developer maintained that Carlsbad officials increased the number of birds from five to six pairs on the basis of this visual sighting rather than by a survey or other documentation, thereby requiring the developer to offset project impacts on more birds. He questioned the office's conclusion because gnatcatchers are known to expand their ranges during the nonbreeding season, which is when the sighting occurred. The developer maintained that the new pair had either already been counted in the biological survey or were birds that did not reside on his property. In either case, he believed that little evidence supported the increase in the number of gnatcatcher pairs.

Carlsbad officials explained that Service guidelines required them to be conservative in their conclusions and to err on the side of the species. Carlsbad officials also stated that in their professional judgment, the sixth pair of gnatcatchers was additional to the birds identified in the biological survey. They based this conclusion on the location of the sighting. Carlsbad officials pointed out that biological surveys often do not capture all members of a species that use a site. The Service uses these surveys as a benchmark for determining a project's effects and the appropriate offsetting measures. If new members of a species are identified during the consultation process, the Service considers this information as the best and most current available and determines offsetting measures accordingly. Carlsbad officials agreed that gnatcatchers expand their ranges during the nonbreeding season, but they did not believe that any of the original five pairs would expand their range to the area where the additional pair was found. They said that it was more likely that the additional birds used on-site and off-site habitat contiguous with the location where the birds were sighted and less likely that the birds represented one of the five pairs to the north, as these birds were isolated by unsuitable habitat. Because the birds were observed foraging on-site, and on the basis of the gnatcatcher's known behavior, Carlsbad officials determined that at least a portion of the use area for these birds occurred within the project boundary. Therefore, based on the best available scientific information, the office included the birds in the number of pairs

the developer needed to consider in developing offsetting measures to reduce the project's impacts on the species.

Flight Corridor for Gnatcatchers

The developer believed that the Carlsbad office's request that he conserve land on-site to complete a flight corridor for the gnatcatchers was inappropriate because this species was not sighted in the vicinity of the proposed corridor during the biological surveys. Carlsbad officials stated that the size and shape of areas used by gnatcatchers are significantly larger than any area that is defined on the basis of a presence/absence survey and that gnatcatchers likely used habitat contiguous with and including the proposed flight corridor. Carlsbad officials explained that they suggested this area for a corridor when the developer expressed interest in conserving gnatcatchers on-site rather than providing off-site property as an offsetting measure for the taking of the species. They told the developer that if he wanted to conserve gnatcatchers on-site, he would need to ensure that the property would support the birds in perpetuity. Carlsbad officials stated that the flight corridor would allow the gnatcatchers the opportunity to immigrate to and emigrate from the property and provided us with documents supporting their position that gnatcatchers use highway right-of-ways for dispersal purposes. Carlsbad officials suggested that the developer locate the flight corridor in an area of his property that already has gnatcatcher habitat and in an area that is directly across the highway from additional gnatcatcher habitat. According to Carlsbad officials, conserving this area would allow birds to sight suitable habitat from both sides of the highway and would provide an opportunity for gnatcatchers to move to and from the property and through the property to Forest Service land to the south.

Habitat Corridor for Nonlisted Species

The developer believed that the office over extended its authority when it requested that another habitat corridor be preserved on the project site for species that were not federally listed. This corridor was in addition to the gnatcatcher flight corridor. Carlsbad officials said that the corridor was needed because the applicant wanted to conserve some of the gnatcatchers on the property and to accomplish this, the developer needed to provide viable habitat for the birds. Carlsbad officials stated that the corridor would provide a means for large predators, such as coyotes, to access the property. Large predators are known to prey on midsize and small predators (such as raccoons, skunks, and domestic cats) that prey on gnatcatchers. Carlsbad officials provided scientific evidence to support their position that a lack of large predators can lead to high levels of smaller predators, which prey on birds.

Carlsbad officials stated the issue of a nonlisted species habitat corridor was first discussed in 1995 with officials from Riverside County who had asked the office to comment on a proposed project layout submitted to the county by the developer. At that time, they stated that the developer was working on obtaining approval of his development plan from local jurisdictions and that Carlsbad officials expressed the importance of maintaining wildlife corridors in the area to county officials. As part of their assistance, Carlsbad officials and officials from the California Department of Fish and Game conducted surveys on potential corridors that remained in the area to connect the already established Lake Mathew's Multispecies Habitat Conservation Plan with the Cleveland National Forest. Because the corridor was one of the last connections between these two large conservation areas, officials from both agencies maintained that it was imperative that the corridor be conserved. Carlsbad officials did not know if the developer was made aware of these discussions with the county or how this issue could have been resolved if the developer had not attempted to conserve gnatcatchers on-site.

Current Status

On July 14, 2000 the Corps requested formal consultation for the project. On December 4, 2000, the Carlsbad office completed and sent a draft biological opinion to the Corps and the developer for review.

**Project Three:
Impacts of a Utility
Company's Proposed
Maintenance
Activities on the
Quino Checkerspot
Butterfly**

In the third project, a utility company needed to perform new construction and maintenance activities in San Diego, Orange, and Riverside Counties, California. To comply with the Endangered Species Act, the utility company developed a multispecies HCP to minimize incidental takes of federally listed species and ensure that habitat for federally listed and other sensitive species would be preserved.⁵ The utility company included nonlisted species in its HCP as a proactive measure to avoid the need for piecemeal additions of species to the HCP if a species were to become listed.

In 1995, the HCP was completed, and the Service issued an incidental take permit that covered 110 species. The permit allowed the utility company to perform maintenance and construction activities. In 1997, the Quino

⁵Multispecies habitat conservation plans are planning efforts designed to facilitate section 10 permitting requirements on a landscape scale. Because the utility company's service area extends across several already established multispecies/habitat conservation plans, its plan was unique.

Checkerspot butterfly was federally listed as endangered, however, under the existing permit, incidental takes of the butterfly was not authorized because the HCP did not include provisions to ensure the butterfly's continued existence. If the utility company wanted authorization for incidentally taking the butterfly during its operations, it needed to amend the existing HCP. Without this amendment, the utility company would run the risk of violating section 9 of the act by illegally taking the butterfly.

At the time of our review, the utility company had three primary concerns regarding how the Carlsbad office handled its HCP and its subsequent amendment. Specifically, utility company officials did not understand why Carlsbad officials initially had not allowed the butterfly on the list of species to be covered in the HCP. Utility company officials also did not believe that the Carlsbad office abided by a legally binding agreement to notify them in advance of listing the butterfly so that actions could have been taken sooner to add an amendment to their HCP that would allow them to continue maintenance efforts. Finally, the utility company believes that the Carlsbad office could have acted more quickly in approving the amendment to its existing HCP once it was submitted.

Coverage of the Butterfly in the Initial HCP

The utility company wanted to have the butterfly covered in its HCP as a proactive measure because, although it was not listed at the time, it had been identified as a candidate species. Utility company officials stated that Carlsbad officials told them that the butterfly could not be covered under the HCP because of insufficient data on the species to ensure that the HCP would adequately conserve the butterfly. Carlsbad officials stated that nothing in the administrative file specifically required the utility company to remove the butterfly from its HCP. However, they stated that even if the utility company had left the butterfly in its HCP, there was insufficient scientific data available to determine the appropriate levels of incidental takes to ensure the species' survival. Carlsbad officials said that this determination was consistent with an analysis being conducted for the large-scale regional conservation-planning efforts for the City of San Diego. Specifically, they provided us with documents showing that they made the same determination for not permitting the butterfly in the City of San Diego's multispecies HCP.

Carlsbad officials explained that determining the effects of takes or conservation of the butterfly is difficult because of the species' rarity and biology. At the time that the HCPs were being analyzed, only one population of Quino Checkerspot butterfly was known to exist in San Diego County. Additionally, in some years, more individual butterflies may

be detected while in other years only a small number of individuals may be detected. The ability for biologists to detect butterflies in the field is affected by local environmental conditions, especially the amount and timing of rainfall. If rains are insufficient or if rains fall at the wrong time of year, the butterfly's host plant may not persist long enough for the butterfly to go through its life cycle from caterpillar to adult butterfly. Consequently, Carlsbad officials stated that it is very difficult to determine whether takes will be catastrophic to the population or whether conservation measures will protect the species.

Notification of the Butterfly's Listing

Utility company officials believe that the Carlsbad office did not abide by its legal obligation to notify them in advance of listing the butterfly as endangered so that actions could have been taken sooner to obtain approval of an HCP amendment. Carlsbad officials stated that before the butterfly was listed, the Service issued an August 1994 Federal Register notice proposing to list the butterfly as endangered and seeking public comment. This notice was published over a year before the HCP was completed and the permit was issued. Carlsbad officials believe this notice was sufficient for making the company aware of the butterfly's proposed listing and was consistent with the agreement that the Service had with the company.

Amendment Processing Delays

Utility company officials believe that the Carlsbad office should have acted more quickly in approving the amendment to its HCP, once it was submitted to the Carlsbad office. They were concerned that without the amendment, maintenance activities on and around utility poles could not be done to prevent electrical fires that would cause safety hazards, compromise the reliability of power to the utility company's service area, and destroy butterfly habitat.

Carlsbad officials said that in order to address the utility company's immediate concerns for safety and reliability, they concentrated on developing an interim strategy that would allow the utility to continue maintenance and that would ultimately be incorporated into the HCP amendment. Carlsbad officials stated that the utility company did not approach their office for an amendment to include the butterfly in its HCP until late 1997—10 months after the butterfly was listed. In early 1998, the Carlsbad office responded to the company's amendment request and explained which documents were needed to complete the amendment process. During 1999, the utility company officials worked with the Carlsbad office to develop interim measures that would allow the company to complete maintenance in some areas and to avoid takes of the

**Appendix I: The Carlsbad Office's Position on
Concerns Raised About Three Projects**

butterfly. However, these interim measures did not apply beyond 1999. In December 1999, the Carlsbad office received another amendment request from the utility company. Carlsbad officials informed the utility company that it would not be feasible to complete the amendment process prior to the butterfly's 2000 flight season that began in April. They stated that the utility company needed to provide them with more information and that there was not enough time to provide for a public review of the HCP amendment and process the permit.

Current Status

As of December 2000, the Carlsbad office and the utility company were still negotiating the specifics of the amendment and working to develop a complete application that can be submitted for public review.

Appendix II: Consultation Sampling Error

Since we used samples (called “probability samples”) of formal and informal consultations to develop our estimates, each estimate has a measurable precision, or sampling error, which can be expressed as a plus/minus figure. A sampling error indicates how closely we can reproduce from a sample the results that we would obtain if we were to take a complete count of the universe using the same measurement methods. By adding the sampling error to and subtracting it from the estimate, we can develop upper and lower bounds for each estimate. This range is called a “confidence interval.” Sampling errors and confidence intervals are stated at a certain confidence level, in this case, 95 percent. For example, a confidence interval at the 95-percent confidence level means that in 95 out of 100 instances, the sampling procedure we used would produce a confidence interval containing the universe value that we are estimating.

Table 3 contains the sampling error shown as a plus/minus figure for each of the estimates we made in this report.

Table 3: Sampling Error for Each Estimate

Description	Estimated number	Estimated percent
Consultations either incompletely or inaccurately tracked	769+73	75+7%
Formal consultations with unsupported dates on the logs	140+52	47+17%
Informal consultations with unsupported dates on the logs	230+52	70+16%
Informal consultations with documentation in corresponding files of dates missing from the logs	276+37	87+12%

Note: All sampling errors are calculated at the 95-percent confidence level.

Appendix III: Comments From the Department of the Interior



United States Department of the Interior

OFFICE OF THE SECRETARY

Washington, D.C. 20240

January 17, 2001

Mr. Barry T. Hill
Director, Natural Resources and Environment
U.S. General Accounting Office
441 G Street, N.W.
Washington, D.C. 20548

Dear Mr. Hill:

Thank you for providing the Department of the Interior the opportunity to review and comment on the draft GAO report entitled, "Challenges to Managing the Carlsbad, California, Field Office's Endangered Species Workload," (GAO-01-203), dated January 5, 2001. Our ability to comment was limited by the short review time.

We welcomed the GAO audit as an opportunity to identify ways to further improve the administration of the Endangered Species Act at the Carlsbad Office, and apply those lessons throughout the Fish and Wildlife Service. The tremendous section 7 consultation and Habitat Conservation Planning workload in the Carlsbad Office is representative of the challenge the Service has in meeting increasing demands with limited resources.

The audit found that the Carlsbad Office's documentation and tracking systems and project processing timeframes need to be improved. The Carlsbad Office has already begun improving its documentation and tracking systems. The audit recognized that improved documentation and tracking systems will not increase the office's ability to improve its project processing timeframes. The audit correctly concluded that improving project processing timeframes will require increasing the office's ability to attract and retain experienced biologists.

We are pleased that many of our previous comments were incorporated into the report. While we generally agree with the findings, we continue to have concerns about three issues:

- We believe GAO's conclusion that improving project processing timeframes will require increasing the office's ability to attract and retain experienced biologists is a critical finding. Therefore, we recommend that this finding, which is currently found only in the "Conclusions" section near the end of the report, should be clearly stated in the "Results in Brief" section.
- The results of the audit state that a number of formal consultations exceeded the required timeframe. It is important to note that the allowable timeframe for completion of a formal consultation also includes extensions agreed to by the action agency and the Service. The report acknowledges that a portion of the formal consultations that were identified in the analysis as late, may actually have been extended, and therefore could

Mr. Barry T. Hill

2

have been within the allowable timeframe. Furthermore, the report does not attempt to assess the degree to which consultations were late, for example 1 day or 10 days. In addition, the Carlsbad Office assessed the 20 biological opinions that were reported as issued from 40 to 60 days after the 135-day section 7 consultation timeframe to better understand the factors that caused these delays. This preliminary analysis was based on the spreadsheet information provided to the Carlsbad Office by the GAO. Of these 20 consultations, one had an approved extension and was not late; one was initiated without the information pursuant to 50 CFR 402.14; two received information needed to complete the consultation after initiation and the Service would have been justified in requesting an extension; one provided a draft biological opinion to the applicant within 35 days of initiation; and three had incorrect initiation and completion dates in the GAO spreadsheet and were not late. Therefore, approximately 40 percent of these sampled biological opinions that the report included as late should not be considered late. We find it difficult to assess the significance of the audit's finding concerning consultation timeframes in view of the results from our preliminary analysis. The Service would welcome the opportunity to review this issue with the GAO.

- The audit found that a portion of the Habitat Conservation Plans processed in the Portland Regional Office that were within the area served by the Carlsbad Office, were not processed within the Service's recommended timeframes. These timeframes were established to provide a target for processing. We expect that most of the HCPs will be processed within this timeframe. However, as acknowledged in the HCP Handbook, these target timelines do not apply if the project is highly controversial, there are staff or workload problems, or there are other legitimate reasons making delays unavoidable. The final report should better characterize that the timeframes are only targets and that given the complexity of the projects in the Carlsbad Office, it would not be unusual for some projects to exceed these timeframes.

In addition, the Service acknowledges the recommendations and has already taken action to implement the recommendations. Regarding the first recommendation, the Carlsbad Office implemented a computerized project tracking database that is integrated with a centrally located filing system for fiscal year 2001 files. Documents and records related to section 7 consultations, section 10 habitat conservation plans, National Environmental Policy Act reviews, Fish and Wildlife Coordination Act reports, and other actions are tracked, organized, and filed using the new database and filing system. As this is a new business system for the office, they are developing quality control standards to ensure the prompt and accurate entry of data, periodic reviews of the database and files, and training on the consistent use of the database.

Regarding the second recommendation, the Service, in general, is committed to providing consistency throughout the regions and field offices, as necessary. The project tracking system used by the Carlsbad Office will need to be evaluated and compared to other field office systems to determine whether it, or something similar, can be used to provide more consistency in tracking workload.

Mr. Barry T. Hill

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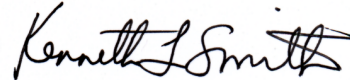
For the third recommendation, the Carlsbad Office has identified several mechanisms to improve documentation of agreements between applicants and their office. These tools include staff training in holding effective meetings, sharing meeting minutes with applicants, identifying areas of consensus and disagreement, and using clerical staff as note takers to document critical meetings with project applicants. The office's tracking database also includes a section to document the ongoing history of projects. The Carlsbad Office is unable to consolidate all of their office files in a central location because of the limited availability of space. They are consolidating the fiscal year 2001 projects into a centralized file.

For the fourth recommendation, the Carlsbad Office is working with their Regional Office's Division of Personnel Management and the Office of Personnel Management to streamline recruitment and to identify incentives to retain experienced staff biologists. In addition, the Service's Washington Office will work with their personnel office to assist with this effort.

Regarding the last recommendation, the Service plans to review its customer service policy for appropriate revisions in accordance with applicable Departmental requirements.

The enclosure provides our specific comments. Again, we appreciate the opportunity to comment and hope our comments will assist you in preparing the final report.

Sincerely,



Assistant Secretary for Fish
and Wildlife and Parks

Enclosure

Appendix IV: GAO Contacts and Staff Acknowledgements

GAO Contacts

Barry Hill, (202) 512-3841

Staff Acknowledgements

In addition to those named above, Keshia Cheeks, Doreen Feldman, Kathy Gilhooly, Curtis Groves, Eric Johns, Roy Judy, Victoria Lin, Sara Ann Moesbauer, Gopaul Noojibail, Allan Rogers, Derek Stewart, Michelle Tong, Gary Wiggins, Greg Wilmoth, and Jim Yeager made key contributions to this report.

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