

SAN DIEGO'S MULTIPLE SPECIES CONSERVATION PROGRAM WORKING GROUP:
EMPOWERED PARTICIPATORY GOVERNANCE IN ACTION

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Note:

This case study is the third chapter of my dissertation, "What Difference Does Local Participation Make?: Contexts of Engagement in Regional Conservation Planning," defended April 24, 2006. See the abstract below for an overview of the dissertation project. Relevant reference information (list of participants, maps, acronyms, and a glossary of conservation terms) is appended at the end of this document.

Dissertation Abstract:

This study contests the universalism of public engagement models by comparing reports of participation in three state-centered processes for regional conservation planning. Each case study analyzes intensive interviews with community members engaged in conservation in coastal U.S. cities facing rapid growth: San Diego, California; Charleston, South Carolina; and Portsmouth, New Hampshire. While all three processes included a similar assortment of stakeholders, the San Diego regime pursued a model resembling empowered participatory governance, the Portsmouth regime emphasized more privatized participation building on existing institutions, and the Charleston regime resembled an exclusive machine-style growth coalition. Researchers have foregrounded the importance of formal inclusion and transparency for equitable, reasoned decision-making, but I find that interviewees did not associate transparency and inclusion with process legitimacy or civic-minded discussion. Formal public participation was often seen as superficial pageantry precisely because it created a forum for those seeking attention for ends external to process goals. In each case, participants knew that partnership was rewarded at higher levels of government, but were skeptical of participation and collaboration for its own sake. Both elites and non-elites in these communities deployed informal, backstage communication to amplify and to defuse pressure for consensus, and to manage the social capital benefits that accrued to participants. Surprisingly, the process in San Diego, which was intended to empower locals, ended up dominated by interest group professionals, while the processes managed by national interest groups solicited lay participation from diverse and reluctant sources, although how partners treated this input differed. These findings demonstrate that the study of democratic engagement can gain by exploring the contextual implementation of abstract deliberative ideals such as inclusion, publicity, and transparency. Sociologically, it is the standards of the place that matter, not researchers' assessments of what constitutes democratic success.

Introduction

This chapter undertakes an in-depth analysis of San Diego's Multiple Species Conservation Program (MSCP) as a working model of empowered participatory governance. As discussed earlier, the San Diego MSCP has been studied extensively by researchers because of its status as a "test case" for the participatory promise of habitat conservation planning (HCP), and the comprehensiveness of its efforts at inclusion—extreme even by HCP standards (Thomas 2001). The analysis in this chapter addresses the character and complexities of three aspects of the planning process undertaken in San Diego in the early 1990s, as perceived by my interviewees: how the process included stakeholders, how the process embodied principles of transparent deliberations and good governance, and whether the process produced consensus-building and social capital within the larger community over the long term.

The central question guiding the analysis of each of these aspects is: Does the formal structuring of participation actually promote perceptions of open-ended deliberation and substantive power-sharing in the local political landscape? By understanding how decision-makers engineered inclusion, authority, and authenticity within the process, we can get a much better sense of how particular groups and individuals responded to and viewed the process in the ways that they did. Why did certain players give up or choose to avoid the MSCP process altogether? In turn, understanding stakeholders' perceptions of the role of the new process within existing political contexts assists in understanding both the victories and failures of the MSCP. How was the new forum situated within (or against) pre-existing modes of contention?

I conclude in this chapter that while the MSCP made great gains in reinventing land use politics in San Diego, the way in which the process privileged formal inclusion and procedural legitimacy advantaged new stakeholding groups and local input over more established membership organizations and national interest groups. While the deliberative process was public and open-ended, this did not stop those who had opted out and even some who had participated from suspecting that important decisions were made behind the scenes or in other

political venues. Mutual consensus and substantive agreements were achieved within the process, but were experienced differently by different stakeholders. Some were exhausted by countervailing backstage pressures for consensus and resistance. Years after the plan was finalized, decisions continued to be contested by participating groups. Later habitat conservation planning efforts quietly jettisoned the working group format. The ultimate withering of empowered participatory governance in San Diego is related to the central paradox of its creation: the MSCP changed the rules of the development game in San Diego, but it did not challenge the game itself. While intended to open up and level the field for diverse players, the MSCP created a new space in which stakeholders competed for legitimacy within the process, among their constituents, and in the larger community. Ongoing deliberation benefited a small cadre of regional professionals, officials, and organizational entrepreneurs who had the capacity and endurance to stay the course over the long term. The maximally comprehensive and participatory format of the MSCP intentionally precluded discussion of alternative forms of engagement and those outside the deliberations—but these were very much in the minds of participating stakeholders.

In Chapters Four and Five, I compare the San Diego case to examples that limited participation and inclusion in order to question the linking of formal engagement models with abstract democratic ideals. The analysis of engagement which follows in this chapter understands the participation in the MSCP process—the inclusion and exclusion of participants and the stories about whether this was appropriate or not—as actively constructed by leaders and participants on an ongoing basis. I am not examining the content of deliberations of the decision-making body and the compromises they drew up, since this has been extensively studied elsewhere (Hogan 2003; Rolfe 2000) and is outside the bounds of this dissertation. However, a brief introduction to the beginnings of the MSCP allows for a better understanding of how the MSCP was situated in the San Diego community.

A New Model for Local Politics: From Litigation to Collaboration in the MSCP Working Group

The idea for the MSCP entailed a bold new break from development politics as usual in southern California. Developers and environmentalists traditionally faced off on each new housing or commercial project using the tools at their disposal, and environmentalists had a powerful weapon in the regulatory muscle of the Endangered Species Act (ESA) and the California Endangered Species Act (CESA), especially since the western U.S. in general and southern California in particular are notoriously rich in endangered species. A project would be proposed, and litigation would begin over the mitigations developers would have to perform in order to account for the endangered species habitat their project would compromise. While the regulations could force costly concessions and modify or halt some projects, they have been ineffective at stemming large-scale species decline or encouraging much recovery.¹ In San Diego, developers often destroyed prime riparian habitat for river-view golf courses, but were allowed to mitigate the impacts of these projects with marginal land of far less habitat value.² As knowledge of the importance of biodiversity and habitat connectivity developed in the last twenty-five years, the idea of saving a particular species by preserving an “island” of habitat came to seem increasingly wrong-headed from a biological standpoint. In addition, the tactic of stalling projects over a period of years while ESA suits wended their way through the court system was costly for environmentalists and developers. Listing of endangered species became highly politicized acts in California for both the state and federal agencies.

Motivation to change the way land development proceeded did not come from developers or environmentalists at the local level, who had gotten used to managing the strategic negotiation afforded within the litigation process. While the process was extremely costly, it was also familiar—and so much was at stake that risking a change would be difficult. Despite the fact that

¹ This is up for some debate, as the limited success of the ESA is often used by opponents, notably Representative Richard Pombo of California, as a reason to abandon the ESA altogether. Those who argue for the success of the ESA point out the extremely-long time horizons of species recovery.

² For definitions of mitigation and other conservation-related terms, refer to the glossary.

the MSCP was intended to diminish the role of the federal government in land use planning in San Diego, the actual impetus for the MSCP came from a variety of bipartisan but decidedly non-local regulatory and corporate sources through an iterative process intended to improve endangered species policy effectiveness. At the federal level, the Interior Department under Bruce Babbitt was looking for ways to promote comprehensive habitat planning as an alternative to time-consuming and costly regulatory processes occurring on a tract-by-tract and species-by-species basis (Merrick 1998; Pollak 2001).

The promotion of more comprehensive planning in order to preserve habitat of sufficient quality and size for a functioning ecosystem was a response to developing science on habitat connectivity, but the choice of San Diego as an early place to try out multiple species planning was the result of the impending listing of one particular species. At the state level, a large housing developer based in southern California had promoted statewide legislation (Natural Communities Conservation Planning, or NCCP) similar to the habitat conservation plan exemption at the national level, and promoted the MSCP regionally through a newly formed advocacy group of major developers called the “Habitat Conservation Coalition,” or HCC.³ The developer was chiefly alarmed about the pending listing of a threatened bird species called the California gnatcatcher. Regulatory protection of California gnatcatcher habitat meant very expensive setbacks for development in southern California, as its habitat covered a wide swath of desirable and developable unbuilt land in the region (Hogan 2003).

San Diego planners and officials welcomed the infusions of outside money and assistance for acting as a conservation plan “test case” and were eager to try out the new plan, particularly as they were facing a mandate to do a comprehensive environmental assessment and watershed planning effort as part of a Clean Water Act judgment against the city (Interview with county planner, January 2004). The new MSCP regime seemed promising to local parties but was

³ This name is a pseudonym. As explained in Chapter 1, most local and regional organizations are referred to generically or with pseudonyms. When first introduced, a pseudonymous name is indicated by quotes.

uncertain territory for environmentalists, planners, and developers used to engaging in contention on individual development projects. If the habitat conservation plan worked, it would mean prioritizing the most important lands and setting them aside permanently as habitat, and letting the rest be developed and mitigated in a predetermined manner without controversy from the environmentalists, rather than having constant standoffs on each new development or road project that came down the planning pipeline. As Allen Hunley, Babbitt's chief assistant on the MSCP plan, describes, the MSCP "really carved out the role nationally of being a leader on approaching these environmental challenges in a different and bold way" (Interview with author, March 2004). While other counties interpreted HCP and NCCP legislation as enabling modestly-scaled, private negotiations between select developers, environmentalists, and state wildlife officials (Hogan 2003, 100)—and ultimately faced criticisms for the conspiratorial tinge of these dealings, San Diego officials were far more receptive to federal encouragement to try a new model that would embrace participation on a broader scale.

The MSCP Working Group was chartered in 1991 and chaired by a deputy of San Diego Mayor Susan Golding, with a representative from the developers' Habitat Conservation Coalition who was also a biologist serving as co-chair. Deliberations over the four plan alternatives offered by the environmental consultant lasted seven years, and produced a 278-page document, which has served as a template for development permitting and conservation acquisitions since the agreement was formally adopted by the city, county, and state and federal wildlife agencies in 1997. The MSCP provided that approximately 30,000 acres would be acquired for public conservation at an estimated cost of 262 to 360 million dollars, half of which would be acquired by federal and state governments and half of which would be acquired by the local jurisdictions (Pollak 2001, 46). On October 24, 2002, public officials and Working Group participants celebrated the fifth anniversary of the MSCP with an outdoor party and the debut of the MSCP portal website, designed to educate San Diego residents and decision-makers about the plan. By June of 2005, the city's annual MSCP report described progress in following through on the plan.

Approximately 9,000 acres had been developed while 12,000 acres had been conserved, a figure that represented 41.2% of the goal of conserving 30,000 new acres through the plan (Greer 2005). For the four “priority target acquisition areas” identified within the MSCP, planners reported that 48.1% of their 4,700 acre goal had been conserved (2005).

While the deliberations of the Working Group took seven years, the streamlined development following the MSCP was anticipated to save from one to seven years in the development permitting process (City of San Diego 1998). In the years since the Working Group was formed, habitat conservation planning has become a first resort sought by developers and western communities attempting to avoid ESA regulation or plan more sensibly in environmentally sensitive regions from Texas to California (Anderson and Yaffee 1998; Beatley 1994; Koontz 2004). This current vogue for HCPs should not diminish an understanding of how unusual the MSCP process was at its inception in the early 1990s. San Diego’s Multiple Species Conservation Plan was seen by the media, its promoters, and even its critics as an exciting and new, but uncertain and untested reinvention of local land use politics (Kaye 1997; Rolfe 2000; Thomas 2001).

Engineering Empowered Participatory Governance: MSCP Ideals in Action

In order to negotiate binding agreements on which lands would be set aside and which would be developed, developers and environmentalists would have to sit at the planning table together, and the Working Group brought together twenty-nine representatives from public wildlife agencies, local jurisdictions, environmental groups, builders industry groups, individual development companies, the regional association of governments, the transportation and water districts, the local energy company, and hired environmental and financial consultants. This was a much larger planning table than most participants were used to, but broke down along lines typical for environmental decision-making: fourteen of the representatives were government officials, eight were business leaders, and seven were environmentalists (Davis 2003b) (see

appendix for the list of official participants). Since the organizers were forming the Working Group essentially from scratch, invitations were extended to those stakeholders they believed would need to be involved, with some initially-excluded stakeholder groups lobbying for inclusion and being incorporated into the group after its initial formation. Excluded were the Environmental Protection Agency (EPA) and the Army Corps of Engineers, an oversight that many regretted later when they realized that the guarantees in the comprehensive plan resulting from the MSCP could potentially have also focused on wetlands and thus included exemptions from Clean Water Act permitting from these agencies (Merrick 1998; Pollak 2001, 28).

Despite these accidental exclusions, the Working Group table was very large, which is typical of San Diego planning efforts. As the sixth largest city in the country, San Diego has many interest groups that regularly contribute to public dialogues on planning, including the General Plan 2020 and other county and city planning efforts that take great pains to involve as many stakeholders as possible. Because of the decision-making power granted to the Working Group, participation involved far more substantive engagement than the usual episodic input in public comment periods and hearings. Deciding to participate involved committing oneself and one's group to a long, time-consuming series of meetings. As the following section shows, this decision was not made lightly. However, the decision-making power that the group was entrusted with had another effect on the sorts of stakeholders it was able to attract, since most of the regular players in San Diego politics had to be involved at some level if they wanted a say in the future of development in San Diego.

The stakes were such that many stakeholders formed new groups specifically dedicated to working on habitat conservation planning, such as the Habitat Conservation Coalition described above, and "Habitat Action Now," an environmental group organized by a county planning commissioner and a retired physician involved in regional planning efforts (Rolfe 2000). Those who were already involved in substantive long-term planning efforts for the county or the city were suddenly presented with a new arena for decision-making that could potentially affect their

ongoing efforts in other planning forums. As a result, the MSCP Working Group, while creating some new interest groups and bringing some parties directly into contact with each other for the purpose of consensus-building for the first time, largely mimicked the regular power politics of San Diego: county versus city, city versus city, recreational environmental groups and wildlife groups versus environmental activists, environmentalists versus developers, and property rights groups versus the agencies and local governments.

Despite its flaws, members were proud of the hard work the stakeholders did to sign on to the program for deliberation and to be part of a progressive new program that was not without incredible stress for participants. Iris Greene, a biologist working for an environmental consulting firm, reports in hindsight on the seven-year process:

In 1991, that was just really a new notion, and it was hard for developers to agree to. It was very contentious, and it was really a stressful time for a lot of people in San Diego. But what came out of that really was an incredible partnership of developers, environmental groups, different federal, state, and local agencies, and not as many cities as probably would have liked to have been involved. But it was a partnership that realized that land use planning is going to be different from now on and these are the partners that have to be involved. (Interview with author, January 2004)

As Greene indicates, the newly-minted “partners” realized that, regardless of their feelings for other participants, the other stakeholders had to be involved in order to give their decisions the greatest scope and legitimacy possible.

Formal Inclusion in the MSCP: Procedural Legitimacy versus Organizational Legitimacy

The more groups that participated in developing the final agreement, the more the agreement could be presumed to reflect the diversity of concerns within the larger San Diego community. Because the San Diego process was public, concerns about procedural legitimacy favored inclusion, regardless of organizational tenure or community standing—a factor that ironically prevented some categories of established organizations from participating. Newer groups oriented towards habitat conservation planning alone had far less to lose and more to gain within the process. More established multi-issue interest groups with broader and deeper

memberships were far more skeptical about signing on. Although formal participation involved more groups in the MSCP, groups with “broad and deep” membership of the sort favored by sociologists of civic engagement were actually less likely to participate because the stakes of joining a formal process were so much higher. As we will see in the more informalized cases in Chapters Five and Six, decisions about inclusion in these cases made the opposite tradeoff, and favored organizational legitimacy over procedural legitimacy. New groups in those cases that could raise their profiles by participating in the process were excluded or allowed much more limited roles. The tradeoff chosen in the San Diego case had ramifications for stakeholder interest in participation, and later on, in perceptions of transparency and consensus-building.

For professionals in the new organizations formed to participate in the MSCP, formal participation would yield substantial gains for the interests they represented (HCP-friendly environmentalists and large developers), for their own organizations’ standing in the region, and for their own personal legitimacy as players in local decision-making. To the extent that Habitat Action Now was staffed by two professionals already deeply involved in planning and that developers’ interests were already represented on the Working Group by representatives of three development corporations and the building industry association, there was a clear benefit for formal recognition as a new interest group within the MSCP. Habitat Action Now became the leader of the environmental groups at the MSCP table, despite the fact that it was a small, regional group run by two and later three main staff people, each of whom also served as members of the board of directors. HAN currently allows members, but membership is free and involves receiving periodic email newsletters—very much what Skocpol and others have criticized in terms of the passive methods of engagement used by contemporary advocacy groups. Habitat Action Now’s shallow membership was matched by its lack of tenure in the local environmental community, and HAN made no claims to represent “local” interests as it was organized to work on NCCP processes all over southern California. By contrast, the countywide chapter of the Sierra Club has two separate singles groups, with paid membership in the hundreds

and fifty activities a month hosted and organized by individual members (Nolff 2004)—hardly the “mail a check” version of group engagement that Skocpol sees as the predominant modus operandi of contemporary advocacy groups.⁴ Nevertheless, national chapter organizations with more engaged memberships had equal or lesser representation within the Working Group than emerging organizations like HAN and HCC.

Leaders of HAN and HCC reaped payoffs through the process in the form of multiple commendations and recognition as leaders in the burgeoning field of habitat conservation planning in the region, assuring these groups roles as dependable participants in future HCPs. In establishing his credentials as a “leader and facilitator of regional conservation activities” and his company’s “poster child” status in regional conservation, one developer who served on the Working Group as a representative of the Habitat Conservation Coalition lists his awards in testimony before the House Resources Committee:

In 1998, I was awarded a Certificate of Appreciation from Secretary of the Interior Bruce Babbitt for our contributions to the San Diego County MSCP. In 1999, I received a Certificate of Special Congressional Recognition from Congressman Brian Bilbray again for our environmental contributions. Also in 1999, I received a California State Senate Certificate of Recognition from Senator David Kelley related to our receipt of a Peacemaker Award from the San Diego Mediation Center. (Committee on Resources 1999)

The two founders of Habitat Action Now list similar organizational credentials (“a regional leader in conservation and growth management”), and similar awards: the David Gaines Award from the Planning and Conservation League, the American Planning Association California Chapter Outstanding Distinguished Leadership Layperson Award, State Planning Commissioner of the Year, the San Diego Mediation Center’s Peacemaker Award, and the national Alexander Calder Prize for business-conservation partnerships from International Paper and the Conservation

⁴ Activities and outings for all sections of this chapter (family groups, regional groups, etc.) number about a thousand per year. Since environmental groups are an example of associations that have increased membership in the post-war period, Skocpol explains that if these groups are not reliant on recruitment through direct-mail, their chapters are nevertheless “not as numerous or thick on the ground as chapters of classical membership federations” (2003, 162). Skocpol’s reliance on quantitative analysis in the text makes this claim about the quality of chapter “thickness” flimsy. This huge county-wide chapter could be counted as a single chapter, but this would neglect the extent to which the chapter has neighborhood-specific activities and is composed of multiple sub-regional groups.

Fund.⁵

For more established groups already recognized in the community, having one's name associated with an uncertain final product caused anxieties, especially for those used to the pitched battles of the past. Because of these trepidations about retaining integrity within the process, signing on developers and environmental groups was a slow and difficult process for Jeffrey Ecker, a county planning official in charge of the MSCP: "There were other people that were there on the building side that were willing to see this as something that would have benefits for them if it was successful even though they wanted to negotiate the best deal possible" (Interview with author, January 2004). Ecker notes that environmentalists were just as nervous as developers about changing the status quo and foregoing the usual ESA litigation model:

There were some environmental people on the environmental side, that were also willing to do that, which was, that was probably equally as hard as the building side because a lot of the environmental folks, not to mention any names, but they're really comfortable with a situation where you're dealing with things on a permit by permit basis that you go after and you can use the legal, the legislation to file suits to block things versus working and putting one of these big packages together that then give surety to everybody. They're really anxious about that, particularly if the science isn't perfect. And so finding environmental people that were willing to take a leap of faith and try to negotiate the best deal on their side was also hard. (Interview with author, January 2004)

Environmental groups with lower profiles welcomed the chance to be brought to the negotiating table despite their skepticism, because they sensed that this was an opportunity to be formally acknowledged. Virginia Reade, the executive director of the "Birders' League of San Diego," says the most important factor for her in terms of joining the MSCP was the chance to gain official recognition for the input of her group: "It has to be formalized, otherwise, you have no leverage; the more formal a role, the better off you are... It's much better to get in the process earlier if possible" (Interview with author, March 2004). As stated earlier, foregoing formal participation in the Working Group usually meant foregoing participation in decision-making for a spot on the sidelines. While the county held public meetings on the MSCP and ventured out to discuss the project and the planning process with powerful interest groups like the Farm Bureau,

⁵ Habitat Action Now website, 2003.

there was no explicitly formulated process for the comments from these meetings to make their way into the formal plan.

Developers and local environmental groups were not the only ones with misgivings about joining the program. Jeffrey Ecker, the former county planning director, describes how a national wildlife organization, despite being far more involved than any of the other national environmental advocacy organizations, still could not figure out how to engage in the process while preserving integrity among members:

[The national wildlife group] tried to get involved, but they never really were successful. It was partly they weren't quite sure what their role was. Should they be an advocate and keep very clean or did they want to get involved and be a little closer with people, you know? That's kind of the choice that a lot of the groups have to make, you know, they can stay outside and be pure or they can jump in and get a little bit of mud on them, you know? (Interview with author, January 2004)

As Ecker describes, the “all or nothing” character of participation warded off those who wanted to be involved but did not think it was appropriate to their mission to become embroiled in local deal-making. Even though the process was intended to be consensus-based, potential participants were highly aware that the deliberations that occurred in the MSCP were likely to be viewed as negotiations by those watching from the outside. National groups were also sensitive to being perceived as intruding in San Diego politics. According to Ben Lowry, conservation director of the Nature Conservancy, backstage financing work was more appropriate for his group than a public role in deliberations: “TNC kind of hangs out of it. And rightfully so, TNC shouldn't do it... If I were to have my druthers I'd rather have TNC go get the money and someone else take credit for it because a lot of it should be local” (Interview with author, March 2004).

Many of the most professionalized national environmental organizations stayed away from the deliberations that occurred in the MSCP. For the national wildlife group that had just opened a regional office in San Diego, this was a result of ambiguity about how they could become involved without compromising their mission or stepping on local toes—although the organization was clearly interested in the process and later funded a national research project

through the University of Michigan specifically focused on how to improve public participation in habitat conservation planning (Anderson and Yaffee 1998). Other national groups devoted to general environmental protection were not solicited for participation in the MSCP because they simply had limited investment in San Diego or southern California and had little representation on the ground in the area. Such organizations kept up with the goings on of the MSCP and viewed the MSCP as important to the future of habitat conservation in other regions, but saw little role for themselves in the local negotiations.

Large national conservation groups like TNC had entered the San Diego region only in the 1990s, and did not have longstanding presence in the political landscape or in the area as a whole. In part, this was because land values in southern California were so high that before the 1990s, these groups had been wary of purchasing conservation lands in the region since their money could go so much further acreage-wise elsewhere.⁶ Participation in community-wide deliberations about species habitat was not an especially compelling route to land acquisition for an organization more accustomed to playing a role as rainmaker or information source for planners and local conservation organizations. These national groups were not induced by the lure of deliberation with local landowners, developers, and officials with whom they had regular contact anyway by virtue of the power and money their organization wielded. Although these organizations did play limited roles consulting on financing for the MSCP, they were far more comfortable operating in the streamlined Orange County NCCP negotiations, where “big capital and big environmental social-movement organizations were able to cooperate” (Hogan 2003, 100).

In sum, for most local groups (excepting the less moderate environmentalists and property rights groups), the promise of gaining a formal say in the future of the region and the

⁶ Part of the rationale for this change was derived from the move by the Nature Conservancy and other national conservation organizations in the 1990s to strategic mapping, which involves prioritizing values like biodiversity in conjunction with more typical aspects of priority like ownership patterns and connectivity. San Diego’s extremely high biodiversity thus began to compensate in the later 1990s for its highly fragmented landscape and stratospheric real estate values.

risk of being left out ended up being compelling enough to motivate their initial participation in the Working Group. Despite the innovative new deliberative roles that the MSCP required of its participants, the existing field of land use politics in San Diego was familiar enough to stakeholders at the national or state level that most were unwilling to believe that a change was probable, and perceived the ongoing deliberations in the context of forced deal-making rather than voluntary deliberation. National environmental organizations consistently avoided participating in the MSCP, and their skepticism of the MSCP caused considerable friction with their local chapter organizations that did choose to participate, as discussed later in this chapter.

Exceptions to a full participation commitment were made by the planning staff such that important stakeholding groups that were represented by volunteers with other jobs could participate in more limited form. Angela Bernstein, the conservation chair of a local native plants group, describes their involvement: “We didn’t go to the day to day MSCP meetings, because we don’t have the staff to do that, but we did attend other meetings trying to work out what the final plan was going to be” (Interview with author, January 2004). One affected landowner who regularly attended meetings on her family’s behalf noted “It was irritating to look around and see all these people who were getting paid to do this, especially when their decisions affect our land and a lot of other people. To participate and protect our interests took all of our spare time, evenings, and weekends” (Anderson and Yaffee 1998). Even when lower-capacity stakeholders participated in a more limited fashion than Working Group members, their sacrifices and investments of unpaid time were much greater, a factor that made these stakeholders less likely to build trust with other groups in the process or endorse the consensus. Participating could heighten these stakeholders’ perceptions of difference, as in the landowner’s case. Bernstein notes her own refusal to negotiate on the terms that other environmental stakeholders were willing to: “Habitat Action Now is pretty successful because they’re willing to negotiate things away in my perspective. I personally cannot do that” (Interview with author, January 2004). Groups that wanted more fluid roles or escape clauses tended to reject full engagement in the

process because they perceived the deliberation as likely to descend into bare-knuckle negotiations.

Predictably, some local and regional environmental activist groups refused to participate officially in what they interpreted as untenable compromises or land giveaways. For those who questioned the necessity of growth in San Diego, the MSCP and its orientation towards managing or balancing growth interests was the wrong approach from the start. But groups that opted out still played an indirect role in the MSCP deliberations. Representatives of groups committed to litigation, such as a multi-state group that litigated on behalf of endangered species, attended Working Group meetings, monitored the proceedings closely, and publicized their opinions on the MSCP in the local press. Virginia Reade from the Birders' League saw less moderate environmental groups with no formal role as actually giving leverage to more moderate environmental groups inside the process: "On the pragmatism to the idealism scale, it's a common story, we need the people way out there throwing stones to put pressure on" (Interview with author, March 2004). Rather than replacing the adversarial model of interest group contention, decision-making in the MSCP process for Reade seemed to reflect David Pellow's insight (1999) that consensus-based and conflict-based tactics may actually be complementary in certain contexts. Deliberative democracy theorist Craig Thomas notes that litigious practices by environmental groups were part of what brought groups to the table in the first place, so "forum-shopping is an inherent part of the process" (2003, 163).

As stated earlier, San Diego has a reputation for being a participatory city,⁷ and San Diego officials and planners tend to make use of innovative mechanisms in order for citizens to speak their minds. Recently, web-based community dialogues similar to those used for the

⁷ San Diego is the home of numerous efforts to increase public education and collaboration on civic issues, including UCSD's own Civic Collaborative and Regional Workbench; Envision San Diego, sponsored by San Diego State University, the local public media corporation, and the local newspaper; San Diego Dialogue, a cross-border collaborative group; and Viewpoint Learning, Collaborative Services, and CityWorks, nationally-recognized private consultants specializing in facilitating public participation and deliberation.

Ground Zero site have been tested in San Diego (Ristine 2005). Nevertheless, San Diego also has a reputation for difficulty integrating public input into planning and implementation (Louv 2005; Troutman 2004). Many participants in repeated planning processes complain that speaking in public sessions is pointless since they do not feel listened to and substantive planning decisions are clearly happening behind the scenes long before public input is solicited (Lee 2005). This frustration (and anticipation of exclusion) does not go unexpressed; Jeffrey Ecker compares a later meeting of farmers to one at the beginning of the process: “I went out there to the same room, and there were even some of the same people in the same room, and I felt lucky to leave with my head!” (Interview with author, February 2004). Since there was no explicit process to integrate the comments from public meetings into the MSCP plan, initially “much of the public wonder[ed] if their voices were heard” (Merrick 1998). Participating in the Working Group was, in this sense, a privileged spot for those who opted to join the discussion. One representative from the environmental community reported that membership in the Working Group meant planners and officials were more attentive to their concerns, even if they were not integrated into the final plan: “There was a lot of listening to us. They really heard our opinions. They knew exactly what our problems were” (Pollak 2001, 19). For those who found the terms of participation unacceptable, the deliberations were watched closely for signs that their initial skepticism was not unfounded.

Despite the claims of EDD theorists that citizen participation in Habitat Conservation Planning is understandably limited because the complex environmental decision-making in HCPs requires too much time and sophisticated expertise for nonprofessionals (Cohen and Rogers 2003, 245; Thomas 2003, 166), many interest group volunteers and professionals in San Diego who opted out of participation had advanced degrees in relevant biological fields and had published articles and books on ecology and planning in the San Diego region (Daniels 2003; Pryde 2005). As a sunbelt city boasting some of the most outstanding bird biodiversity in the country, San Diego has a deep reserve of hundreds of passionate birder retirees who were successfully

marshaled as field biologists to contribute to a multi-year bird atlas project that provided data to the MSCP (Unitt 2004). Not least, local environmental membership organizations had conservation committees and members willing to pore over planning documents in public libraries long before the advent of internet dissemination of these documents (Sandra Leath, interview with author, January 2004). San Diego was not lacking in citizen organization, capacity, or interest to get involved. But a formal participation process that erred on the side of inclusion of new groups infuriated existing environmentalists who saw such groups as inauthentic local players. The perspective of a retired Ph.D. plant ecologist specializing in vernal pools is typical of those who lampooned the redistribution of power in the environmental community that emerged after the late 1980s: “the conservation community is nearly unrecognizable. Money has corrupted the conservation movement... because its members often work for businesses contributing to the problem” (Daniels 2003). The director of a natural reserve system at the local university claims “it was a bunch of inept people” (Davis 2003b).

Stakeholders that had the capacity and interest chose not to participate in the MSCP Working Group, contradicting the claims of deliberative proponents that inclusive ideals, when not achieved, are typically frustrated by apathy or capacity limitations. Planners did find participants willing to partake in a collaborative process and representing both environmental and development interests, but these were not necessarily those stakeholders that represented diverse or especially large constituencies in the larger community. In fact, formal opportunities for participation changed the larger landscape of conservation and development interests in the San Diego region, empowering moderates and groups with less standing through their participation, as deliberative proponents might applaud. Nevertheless, the choice to participate (and by default, associate with other participants) was interpreted by local groups as ideologically fraught and controversial, and these outcomes came at the expense of groups social scientists favor as having more diverse and substantively-engaged lay memberships. In a political environment that a federal agency observer called “very difficult and highly charged” (Davis 2003b), formal

participation as an inclusionary ideal was not roundly celebrated. Neither was the loss of formal participation bemoaned later on.

Most discouraging for those who see the MSCP as a flawed, but promising starting point for empowered participatory governance, Jeffrey Ecker confesses that in subsequent HCP processes involving the county, the board of supervisors has advised county officials to avoid instituting official Working Groups with the power to deliberate— and possibly deadlock:

We did not—at the direction of our board and this is something that we were just told by the board members—they didn't want to have an ongoing stakeholder group. Instead what they told us they wanted us to do—and we did a lot of this in South County [the MSCP] but we also had ongoing groups as well—they usually ended up, you know, if they're evenly divided, they'd end up with a 5-5 vote and couldn't do anything. [Laughs] (Interview with author, February 2004)

Instead, the board advised that the county planners move back to a consultative model where the planners could deal with gatherings of common stakeholding interests like environmentalists on their own turf:

Jeffrey Ecker: They [the board] said you go out and do ad hoc...

CL: Charettes?

Jeffrey Ecker: Yeah, kind of what we were doing yesterday [a friendly informational meeting with the local farm bureau]. We have a group of people that we know are interested, some are environmental groups. [The new head planner] has brought them together two or three times and we have them develop a group and we go around to the planning groups and you might have a whole mix of different types of people there. So we're trying to do it that way rather than have a formal set of folks that are at the table, and I think it's working but we'll find out at the end of the day. (Interview with author, February 2004)

Jeffrey's comments about the amount of diversity present in these smaller forums is instructive, particularly when considered in terms of the discussion of forum-shopping above. At a large table of environmentalists and developers, compromise might be encouraged by the sense of developers that it may be to their advantage to deliberate with more moderate environmental groups in order to be able to respond to the critiques of less moderate groups. However, when the environmental groups are brought together voluntarily, their diversity might serve to work against them since they are unable—occasionally even within a single organization—to formulate a

strong consensus for planners to implement. Ecker's hesitancy regarding the success of the new (back to the old) approach is particularly instructive given his long experience in the planning community, which generally has sustained many criticisms from San Diegans on the fairness of participatory institutions themselves. While this is a popular area for contention, the changes in the approaches to habitat conservation planning have not provoked as much uproar as one might expect from groups that had finally gained a role at the decision-making table.

The appreciation of locals for the ability to participate and remain informed at all may have superseded concerns about how participation occurs—or this may point to the fact that the MSCP has finally been successful in creating trust in planners' professional abilities to implement input from all sides. Perhaps the withdrawal from deliberative models indicates that arguments over how participation should take place and how locals should be kept informed have been preempted by contention over the substance and implementation of land use plans. Sandra Leath, a local Sierra Club chapter volunteer, who had been involved in the original and one later habitat planning process, discusses her perspective on the importance of participation in both plans:

The... thing I liked about [the MSCP] was the public participation. We had full public participation with both of those plans that I worked on. The North County Subarea Plan, it's very good public participation and they give us annual reports about what's going on. You have a public annual report. (Interview with author, January 2004)

Deliberative elements of participation have been replaced once again with consultative models in San Diego, but some participants, particularly those volunteers for whom even partial engagement in deliberation was difficult and draining, have not resisted this limiting of their power. The experience in the MSCP put old solutions in a new light—by increasing respect for the difficulties facing planners in their decision-making, and by demonstrating that the usual suspects are consistently involved by virtue of their greater capacity for “perpetual participation.”

Despite deliberative proponents' emphasis on improving formal participation methods, it is highly unlikely that any state-centered collaborative process that was open to developers could have gained the participation of many less moderate (but by no means extreme) environmental

groups. In fact, it is likely that the newness of the process actually caused more stakeholding groups to participate than would become the norm once the outcomes of HCPs as alternatives to litigation were better known. Many had participated either because they felt compelled to come to the table in order to have any say in decision-making, or because they hoped that the process might produce marginally better outcomes than doing nothing (Davis 2003b). Nevertheless, as Walker and Hurley have argued (2004), deliberative researchers and agency facilitators continually misread the complex inter-organizational dynamics of formal participation and diminish the extent to which participation choices are based on political calculations external to the process itself. Typically, an eighteen month study of fifty-five large HCPs by two prominent researchers of collaborative ecosystem management found that stakeholders had a “fear of public participation” (Anderson and Yaffee 1998) and cites a National Audubon recommendation in a study of participation in HCPs that instructs environmentalists to beware of inclusion if participation requires supporting the final plan or getting involved in negotiations. Nevertheless, Anderson and Yaffee suggest that USFWS officials should redouble their efforts to increase the participation of stakeholders and “ensure that all legitimate interests are represented” (1998, 38)—a clear impossibility if groups refuse to participate. Despite the fact that formal inclusion in the Working Group was an all or nothing prospect, there were a variety of ways in which groups that did not formally participate managed to participate to a lesser extent in the process by attending the public meetings, meeting with government officials individually, or monitoring from the sidelines. How did those on both sides of the participatory divide view the proceedings that occurred within the formal group?

Performing Transparency: Formal Deliberation and Informal Communication in Public Settings

Creating incentives for cooperation and lowering transaction costs within institutions can diminish the incentives for acting solely in terms of zero-sum interests,⁸ and deliberative theory is based on the insight that it is possible to change or diminish the extent to which strategic bargaining over public goods dominates more public-spirited arguments based on reason rather than interests. For the MSCP, this meant limiting the amount of ad hoc public input, opening the decision-making table, but inducing the partners there to conduct discussions under a modus operandi borrowed from the more sanguine and professional meetings of the business world. Virginia Reade, executive director of the birding group, notes: “The process is very professional and very fair” (Interview with author, March 2004). From Jeffrey Ecker’s standpoint, the most relevant mindset was the popular bible of negotiation from the corporate realm, “Getting to Yes” (Interview with author, February 2004).⁹ For stakeholders, more intimate deliberative settings can be a relief from the raised volumes of public hearings, but critics of deliberation like those described in the preceding chapter claim that such settings can also be intimidating and oppressive since they suppress dissent and require professional presentations and measured codes of speech. Do stakeholder perceptions reinforce Sanders’s, Young’s, and Mansbridge’s claims that deliberations like those in the MSCP will disadvantage those with less power? How did Hajer’s dramaturgy of setting and staging contribute to stakeholder perceptions of the transparency of the deliberations once they were inside the door?

Many participants in the MSCP reinforced the prevailing assumption of researchers that formal participation in deliberation is a “win-win” for everyone involved (Walker and Hurley 2004). Former mayor Susan Golding proudly announced “Everybody wins!” in a profile of the MSCP on the *Newshour with Jim Lehrer* (Kaye 1997). Surprising affinities were discovered that

⁸ Regarding institutions and game theory, see Ingram and Clay (2000) and North (1990).

⁹ Despite its cachet in the business world, “Getting to Yes” author William Ury is Director of the Global Negotiation Project at Harvard, which is dedicated to dispute resolution at the level of nation-states. This blurring of corporate and public negotiation tactics is telling, particularly given Bernstein’s comments on professionalism in the next paragraph.

may never have surfaced had groups not been forced to get to know each other and the nuances of their positions. Angela Bernstein, the conservation chair of a local native plants group, was surprised to discover that, as a “weed person,” she could find common ground with the cattlemen whom her group usually opposes (Interview with author, January 2004). Bobby Goode of HAN claimed that a lot of the Working Group’s success could be attributed to turning points of mutual feeling:

At some point you realize that the mutual goal can serve several different objectives. It can serve their objectives, it can serve your objectives, and the cliché is you start rolling together. There’s a very discernible moment when that occurs, not unilaterally, not with everybody, but you begin to get a sense of momentum. And I’ve seen that over and over again in the process. (Interview with author, April 2004)

Virginia Reade of the Birders’ League says the most important factor for her in terms of negotiating the MSCP was learning to work with other participants regardless of suspicions about their motivations:

We usually cordially disagree, usually end up agreeing to a compromise... I’m interested in: “What’s the outcome on the ground?” I’m trying to get the best outcome there is, and it’s a judgment call. I have definite opinions about who’s got conservation at heart and who does not, but I respect all parties. (Interview with author, March 2004)

Such turning points from strategic negotiation to collaboration are the ideal goal for deliberative democracy proponents. One participant noted in a public report that participants actually got along “suspiciously well” (Merrick 1998).

These high profile cooperative successes were accompanied by individual and group assessments of the extent to which the formal aspects of the process were affected by backstage dealmaking. Outsiders maligned the theatricality of the public deliberations, playing off the notion of the MSCP as redolent of Russian propaganda and Soviet-style centralized planning. Both the extreme right and the extreme left saw the MSCP as an illegitimate civil process because smallholders and small species were threatened by dominant interests in conjunction with the regulatory muscle of the state. Accusations of socialism and communism were not uncommon from property rights groups (Chase 1997, 30), but they were generally laughed off by

interviewees who had participated in the process.¹⁰ Jerry Younts, a vocal environmental opponent who claims “San Diego is run by the development community,” got increasingly animated when discussing his anger with the MSCP process: “It has no integrity whatsoever. It’s just a showpiece, a Potemkin village, we can prove that!” (Interview with author, February 2004). City and county planners tended to take criticism of the MSCP as an undercover developer giveaway more seriously. An information sheet for the MSCP refutes the question “Is the MSCP just a method for developers to get around the Federal and State endangered species acts?” (County of San Diego 2006).

For those who participated in the process, the prospects for authentic public deliberations unmarred by informal negotiation were more complicated. Rather than breaking down barriers to cooperation, the high stakes policy outcome often amplified the tenor of deliberations and the difficulty for individual groups to satisfy the conflicting demands of their own constituents, their deliberative collaborators, public officials, and the administrative hierarchy of the organizations they represented. The focus within the Working Group on the professional tone and conduct of the process served to reinforce the division between environmental professionals and volunteers. Regardless of political orientation or attitude towards the MSCP, those groups that were professionalized and had paid staff were far better able to embrace consensus in the MSCP than those organizations that were predominantly represented by non-professional volunteers.

In accord with Iris Marion Young’s claim (2000) that the pressure for consensus and rational argument in deliberation hampers the authentic expression of differences, Angela Bernstein of the native plants group relates her sense of how volunteers must control their self-presentation: “It helps if you show up places on time. It helps if you come to the meeting prepared, you’ve read the documents, you’ve discussed it with other people before you walk in the door. You cannot lose your temper. There are people who tend to get angry easily and can’t

¹⁰ Despite these dismissals, Walker and Hurley describe how a campaign using this frame successfully derailed a similar California resource planning process (2004).

hide it too well. You have to have a really thick skin” (Interview with author, January 2004).

Bernstein notes that aside from being emotionally restrained, some sort of professional training, if not professional status, is key for holding your own in the process, even though she describes herself as someone who will not “give away” concessions if the science is not supported:

I had asked [my organization] after my experience to get mediation training with the conservation chairs and negotiation training, because I thought that would help people. I didn’t know what I was getting into. I was used to reviewing a document and writing a letter... I would have liked to have been trained somehow for those interactions. (Interview with author, January 2004)

Understanding the unwritten rules of professional presentation, meeting etiquette, and negotiation styles is critical for less experienced stakeholders. While capacity requirements described by Chaskin et al. (2001) of simply getting to and having prepared in advance for frequent meetings were out of reach for volunteer groups with lesser capacity, when volunteers did attempt to interact with professionals, they had to perform in settings that clearly privileged more professional self-presentation and rhetorical skills, substantiating the claims of theorists who emphasize that deliberation reinscribes power differences in subtle ways (Fung, Young and Mansbridge 2004; Mansbridge 1980; Sanders 1997; Young 2000). Stakeholders rarely expressed that this was an insurmountable obstacle, however, in concert with findings in empirical studies of deliberation that language and presentation barriers may be overstated by theorists (Cohen and Rogers 2003, 245).

Pressure within the deliberations for consensus and professionalism from fellow collaborators was in many senses the least of the stress these stakeholders were experiencing. As Reade points out, environmental groups could counter pressure for consensus and force compromise on their own more moderate positions by expressing the pressure to resist that they felt from less moderate groups throwing stones “way out there”—but who were often observing from within the public meeting room where deliberations were held. Explicit backstage pressure that was harder to communicate within the deliberations involved pressure on agency officials from within their own hierarchy to make the process a success and forge consensus on viewpoints

where lower-level employees frequently wished they could take a stand against developers.¹¹ These agency employees *in turn* put backstage pressure on environmental representatives who were seen as more capable of resisting the pressure for consensus. Volunteer representatives could use their supposed unfamiliarity with the rules of the game and the marginal tolerance for their “eccentricity” as an excuse for holding the line against more powerful opponents. In Bernstein’s words, “They do use us as the bogeymen at the [wildlife] agency” (Interview with author, January 2004). Agency employees were equally frustrated with their inability to express their doubt about planning decisions. Disenchantment with behind-the-scenes pressure from their superiors led two biologists from the Fish and Wildlife Service to leave the agency following the process, one for a board position with Bernstein’s organization (Davis 2003a).

Bernstein laments that having to keep common ground with agency officials private and resisting pressure for consensus on behalf of others also means performing an unpopular role: “To the extent that we provide that, I’m glad. But I regret having to have been a bitch, okay?... An aspect of my position in the habitat plan is I got to be the environmental bitch while other people got to be the friendly, let’s-make-it-happen people. I hadn’t experienced it to that extent before” (Interview with author, January 2004). While critics of deliberation like Jane Mansbridge emphasize the importance of “strengthening the will—even the obligation—of the dissenters to stand out against the looming consensus” by finding allies and allowing vetoes (Fung, Young and Mansbridge 2004, 49), Bernstein shows that in some of the deliberations for the habitat plan, volunteer environmentalists actually felt behind-the-scenes pressure to act adversarially. This caused environmental groups to play the role of lone obstructionist more often than they may have otherwise. On the other hand, representatives of environmental organizations with multi-level administration also felt extreme pressure from their own administrative hierarchy and local

¹¹ Koontz (1999a) finds evidence that devolution to lower-level administrators is not associated with greater enthusiasm for participation; in fact, national officials are more likely to support participation than state officials. My own interviews support this claim, as in the San Diego case described here and in Sperling’s and Walley’s interviews in Chapters Five and Six.

members to resist consensus and explain deliberative compromises that appeared to be concessions from the outside (See Figure 3.1).

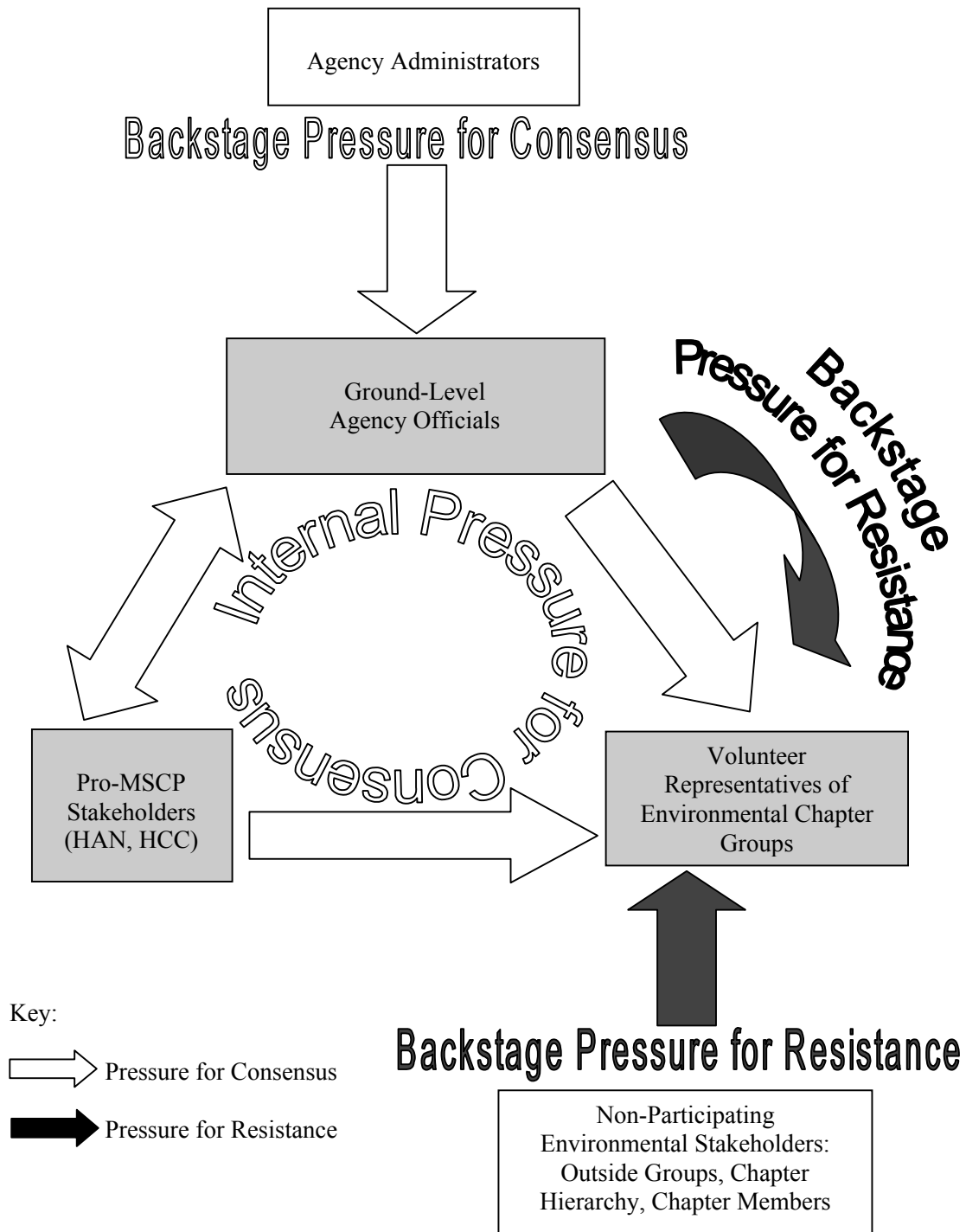


Figure 3.1: Countervailing Pressures for Consensus and Resistance in the MSCP^A

^AShading indicates participation in MSCP deliberations.

Despite the public quality of the deliberations, many outside observers suspected opaque negotiations and power imbalances behind the scenes. Perceptions of the transparency of MSCP decisions provide a useful guide to the limits of openness, even in a formal process with so many public representatives at the table that repeated staging of secret negotiations within the MSCP process itself would have been relatively difficult to manage. For some observers, the frontstage of contained deliberations suggested in its very existence the presence of some backstage or hidden or larger reality. National groups in particular were wary of local chapters setting precedents for future processes; they suspected that the potential to gain long-term leverage and power within the decision-making community for small-capacity local chapters might come at the expense of the ability of the larger organization to advocate against compromising habitat protection in the future. Volunteers with local chapters of national organizations like Sandra Leath, the conservation chair of the Sierra Club, had to do much more work within their own organizational hierarchy to win approval for their positions in the deliberations. Leath had to gain approval from the land use committee, the conservation committee, and the executive committee of her chapter. She describes the pressure she felt to sustain working relationships with elected officials that created room for continuing debate between the group and the county:

When we were approving the county [plan], there was one supervisor who was very supportive of the MSCP, one of her staff members kept getting on my tail, she kept calling me: “Is the Sierra Club going to approve the MSCP?”, because it gives strength to that social process. I was working on that like crazy because there were people who were very upset about the wetlands issue and felt we shouldn’t approve. I was very proud that we reached an agreement but in our approval, in my approval speech to the [County Board of] Supervisors’ meeting, I would say that the wetlands issue was not approved, we felt something needed to be done about the wetlands. But we did approve [the MSCP]. (Interview with author, January 2004)

These volunteers suffered frustration when they found that the deliberative outcomes they were so proud of achieving within the deliberative process and within their chapter were not looked upon favorably by state-level staff. As a result of a formal complaint lodged against the local chapter, Leath describes how the state organization imposed formal requirements for future

participation in other habitat planning processes: “They were required to look into it and they set up a committee and the committee made some rules and regulations, and the national organization made some rules and regulations about HCPs” (Interview with author, January 2004). Whereas the state and national levels of the organization had concerns about the MSCP as a one-off process that might set a dangerous precedent, Leath saw the process as an opportunity for much greater participation than had been afforded the environmental community in San Diego in previous planning efforts. Local chapter groups were usually less willing to be seen as obstructionist than their national organizations, because rejecting the MSCP on principle would inhibit their input being taken seriously in community deliberations down the road.¹²

Participants in the Working Group were all aware that sensitive discussions often took place in subcommittee sessions. Although subcommittee decisions were supposed to be referred back to the larger group for approval, one report on the results of the MSCP describes disagreement on the way in which these negotiations were perceived: “Some interviewees indicated that the process was not such a collaborative negotiation as it was portrayed to be by the media, and one participant expressed frustration with the ‘behind the scenes’ decisions that made the working group process appear to be ‘window dressing’” (Merrick 1998). Using subcommittees to decide particular issues was a way of bringing decisions on technical matters or matters requiring some private discussion to the committee, but this also created room for suspicion that some decisions submitted for Working Group approval had been negotiated beforehand. Whereas Naurin points out that some privacy can actually produce more public-spirited deliberation, private deliberative outcomes tended to intersect awkwardly with final approval in public meetings. Observers who were not members of the Working Group described this as a “subtle process of exclusion. You’re not invited to the meetings, to the meeting behind the meetings where decisions were made” (Pollak 2001). The public process did not prevent

¹² One exception to this is a state-level environmental organization that endorsed the plan despite the fact that its local chapter refused to endorse it.

some participants from retrospective skepticism about the superficiality and true transparency of the proceedings.

As such, the performative elements of consensus-building entailed a subtler power politics within deliberations that involved donning both professional demeanors and resistant ones. In some sense, the descriptions of these roles from those who participated in the MSCP actually indicates that, rather than creating a space free of the “theatrics” of public hearings, where impassioned pleas, raised voices, rancor, outbursts, clapping, and hooting represent the raw emotionality of having to present deeply felt interests in an open setting—the MSCP deliberations were just as consciously managed and dramaturgical. Some participants experienced their own public performances as more consciously artificial than others. Maarten Hajer has acknowledged these performative aspects of political deliberation (2005), but very few deliberative proponents (outside of rational choice theorists’ emphasis on “signaling” (Elster 1998)) have considered or compared deliberation as a performative exercise.

The data collected in this project do not allow for an assessment of how much backstage deal-making among MSCP participants may have subverted the deliberative ethic of the overall negotiations. Despite some suspicions of deliberative window-dressing and behind-the-scenes decisions, the length of time it took to reach consensus and the frustrations many felt with the messiness of the process indicate, if anything, a remarkably scrupulous effort to accommodate diverse viewpoints in a very large group.¹³ But the foregoing discussion of the informal pressures experienced from outside the formal deliberation process demonstrates the extent to which the “reality” of transparency does not matter. Regardless of whether participants themselves experience public deliberations as authentically cooperative, the discussions and position-taking within are less public-spirited than outsider-directed, as Naurin notes (2002). Compromises and

¹³ This scrupulosity itself may be interpreted as intended for public consumption. Nevertheless, the pursuit of cooperation in San Diego is notable for its adherence to EPG ideals when compared with alternative HCP processes which did not bother with participation at all, like the Orange County process Hogan describes (2003). Additionally, the fact that the final plan did not impose solutions for particularly contentious areas provides evidence that consensus was not forced in areas of substantial disagreement.

consensus are pursued by group representatives in the context of awareness of how these agreements and their subtleties will be perceived by different constituencies of varying scope. What may seem like a victory for group representatives at the local level may be a catastrophe for group leaders at the state or national level; what is portrayed as a principled stand rooted in ecological data may in fact be a careful triangulation of countervailing pressures from both sympathizers and opponents on either end of the ideological spectrum, depending on one's perspective. What deliberative collaborators may understand as a hard-won stakeholder position of partial support with caveats may in the attention space of the public media become an unqualified endorsement.

Because of these difficulties, non-elite social movement actors like many of the volunteer environmental group representatives in San Diego may withdraw from public deliberations exhausted and demoralized—and not necessarily by the process itself. They may retain belief in the process and fellow participants, but feel hamstrung by a lack of trust, support, and cooperation from within their own organizations or the larger environmental community. Despite the claims of deliberative democracy theorists that “perpetual” participation is potentially ideal, the ending point of the long seven-year process provided a convenient exit for participants like Bernstein and Leath to move on to other projects or formally retire from the deliberative scene. Not surprisingly, those professional players least tied to broader constituencies and memberships—local organizational entrepreneurs who organized to lobby for and then participate in the process on both the environmental (HAN) and development industry (HCC) side—may find their own public profile significantly strengthened by their interest in continuing to participate in public deliberation.

Certainly, critics of deliberation are correct that without understanding the local political landscape and institutional and organizational missions under which public deliberations take place, one cannot understand the limited potential for power redistribution in formal processes. But public deliberation is experienced as a contradiction for some players more than for others,

and pressure for consensus and rationality are not singular or strictly internal forces in deliberation. Representatives of membership groups and more traditional social movement organizations experienced external backstage pressures for resistance within public deliberation as requiring excruciatingly nuanced public performances, whereas interest group professionals were better able to reconcile stronger internal pressures for consensus with their own organizational missions. Informal communication was not strictly the domain of elite players in the case of San Diego. In fact, elites operating within the process had the most to gain by sustaining other participants' belief in the authenticity of the deliberations; given their power as formal participants in the proceedings, they had very little need to engage in backstage deal-making. Informal communication in the context of the public deliberations was most salient inasmuch as it created tensions for non-elites between their struggle for attention space and authenticity within the deliberations and their capacity to retain legitimacy in their larger community of interest.

Maintaining the Consensus: Perceptions of Efficacy and Durability of Formal Agreements

A major factor in terms of getting to agreements within the MSCP was the sheer investment that had already been devoted to the process by the parties involved in over seventy meetings over seven years (Pollak 2001, 83), certainly a factor that leads to pressure for consensus. The effort of having attended so many meetings and worked so hard provided a huge incentive to make conclusive decisions on particular issues that seemed intractable at the beginning. "Just being in the trenches with a number of people for years" was identified as crucial for hammering out agreements by Bobby Goode of HAN (Interview with author, April 2004). One interviewee noted that over the course of the process, some partners received support for personal tragedies, shared meetings right before holidays, and other sympathetic or common experiences as a result of their commitment to the process that built fellowship and trust as well. But appreciation of long-term personal relationships within the group, which Partnership and

Task Force members in New Hampshire and South Carolina emphasize as critical to consensus-building in their much smaller groups, were emphasized far less by Working Group stakeholders in San Diego. Deliberative theorists typically assert that the process is more important than the product, in that the ability of partners to work out agreements will continue long after specific decisions are made. How did stakeholders perceive the challenges of maintaining their consensus over MSCP issues after the plan was produced? Did they continue to think that the MSCP decision-making process was effective?

For Jeffrey Ecker at the county planning department, the momentum of relationship-building through consensus did result in increased trust for some stakeholders. Evidence of follow-through tempered the objections of important stakeholders like farmers who resisted the MSCP process all along. In regards to a long-time critic of the process, he comments,

He's still a skeptic but he at least has been following what we're doing and that's good. And hopefully over time we'll convince people. I think people have to see the programs ten years from now and see what's happened. Learn how much land we have preserved. Have the species continued to go extinct? Is there management monitoring going on as was promised and all that stuff? (Interview with author, February 2004)

Ecker acknowledges that the Working Group was not the endpoint of the ongoing need to legitimate the process in the eyes of the public—a task that has become easier as the conservation promises in the plan are fulfilled and the linking of preserves gains momentum. Ecker relates his experiences going from tension-filled farmers' meetings at the beginning of the process of gaining support for the MSCP to a calm and friendly one that he and the interviewer had attended the day before: “We’ve developed a certain amount of trust in working relationships because they see that we’re really trying to help them and that the outcomes were generally pretty good” (Interview with author, February 2004). Jeffrey Ecker explains away remaining objections after the fact as ultimately limited to a few parties:

There's still people that don't like the program. There's some landowners that have had to do some things or not do some things that they wanted to do that have some axes to grind, but generally speaking the big landowners, the Building Industry Association, those guys are okay with us, the Audubon Society and Sierra Club and those guys are

critical, but they're not really that critical of the county very often. (Interview with author, February 2004)

As Jeffrey Ecker noted earlier, time was a friend for winning over local residents who were skeptics, but time was also an obstacle to continuing to sustain the project and the participating groups' belief in the worth of the process. When asked about difficulties, Ecker responds: "Just change in people and administrations. You're always having to reeducate people as to what you've done and sometimes it's a lot more difficult than you would hope it would be" (Interview with author, February 2004). Simply participating in so many concurrent and long-term efforts is exhausting for all but the most engaged players. Environmentalist Bobby Goode describes this as "the self-limiting reality": "There's only a handful of people that are involved with the MSCP that have had a continuum of engagement. It's just different jobs and moving on and so on, just life. In San Diego, I know there's less than ten people that have been in there since the beginning [1991]" (Interview with author, April 2004). This smaller group of long-term participants represented a reversion to the usual suspects model of planning politics, where community elites with vested interests in negotiation tend to maintain consensus by outlasting newer faces at the table. As Chapters Four and Five describe, public-private partnerships that invite only a small group of these usual suspects who are capable of indefinite belonging to a consultative group take advantage of this phenomenon, but try to make the results more inclusive on the back, rather than the front, end.

County planner Jeffrey Ecker notes that it has been relatively easy to leverage political capital by maintaining cooperative stances when lobbying legislators:

The bottom line is having the program and having the plans in place and having the social infrastructure in place in terms of working together to do these plans over the seven years that it took. You know, you develop working relationships with the [agencies and HAN], which then allows you to use that social capital and go back and pitch that this is all something that everybody agrees with. (Interview with author, February 2004)

Participants were highly conversant in the argument that consensus generated federal and state support. Angela Bernstein summed up the lesson of the MSCP: “When opposed people lobby together, politicians really like it” (Interview with author, January 2004).

But the fragility of administrative support for the MSCP plan and the challenges to individual planning decisions made under the MSCP contest Fung and Wright’s claim that state-centered activity provides ongoing security that consensus-based efforts will be productive, as compared to the “relatively brief democratic moments” afforded through participation in collective action or electoral politics. While interest group partnering and cooperation in San Diego was relatively stable among the core group of high capacity players, the landscape of policy-making and implementation was highly uncertain due to administrative turnover, expired legislative mandates, and power struggles among agencies, counties, regional associations of governments, and cities. In San Diego, the entire MSCP model was threatened when administrative withdrawal of leadership at the federal and state level caused NGOs to withdraw resources as well. Ben Lowry describes his local office’s skeleton staff, which had turned over four times after momentum at the state and federal level shifted: “What happened is everyone went away. The Clinton administration went away, the Wilson administration went away. They left” (Interview transcript, March 2004). By comparison, developing reliable informal networks seems far more of a sure thing than state-centered access and funding for participatory policy-making.

Groups recognize that partnership without informal cooperation in implementation threatens their collaborative efforts, regardless of the substantive cooperation and good will generated in the formal process. A study from the native plant society states: “As we experienced in the southern California experiment..., conservation platitudes may sound nice and make the NCCP look good. But if implementation lacks specifics, the implied positive action may never actually occur” (Witham 2001). This criticism of the ongoing uncertainties of interpretation in implementing the plan was rooted in the consensus-building approach itself. Critics claimed that

in order to reach consensus, participants had walked away thinking they had agreed but interpreting their agreement differently: one critic notes, “The only way an agreement can be reached ... is if the language is so vague that it can be interpreted the way each side wants to interpret it” (Davis 2003b). The plan gave legal assurances¹⁴ to developers and promises of protection to environmentalists, but neither stakeholding group came to believe that the formal consensus had been implemented properly. A state official who conducted a review of the MSCP and recommended stricter standards for species protection acknowledged that legal requirements would change little without the political will of the partners: “There’s only so far you can go. Changes in language don’t necessarily translate to changes in actual practice” (Davis 2003b).

When areas that had been singled out for preservation were left out of the final maps and allowed to be developed, disputes arose among participants about whether this had been accidental or whether such areas were never intended for preservation (Davis 2003a). Developers and environmentalists had reached formal consensus on conservation of resources like seasonal wetlands called vernal pools to “the maximum extent practicable,” but this language left considerable room for disagreement over whether developers were interpreting this language in good faith (Story 2000, 9). The plan itself specified that eighty-eight percent of vernal pools should be preserved (City of San Diego 1998, 3-47), but did not identify how many pools remained (Davis 2003b). In the public sphere, agency officials and environmental supporters like Bobby Goode defended such percentages as representing substantial consensus for conservation that the environmental community had been fortunate to get: “[The Working Group] had developers, agencies, jurisdictions, water districts. That collection of people was simply not going to choose one hundred percent conservation. It was not in the cards. It never is” (Davis 2003a).

Environmental groups countered that ninety-seven percent of vernal pools had already been lost, and complained that agency officials were not following through on their promises simply by sending warning letters about “lack of avoidance on site” after the fact to developers

¹⁴ See glossary for definition.

who had clearly violated the spirit of the MSCP by, for example, bulldozing sixty-six vernal pools on one-fifth of an acre in an over sixty-acre project, and preserving only one surrounded by a fence (Davis 2003c; Rolfe 2000). By 2003, seven lawsuits had been filed over the MSCP and its implementation by groups like Bernstein's that had participated in developing the MSCP agreement (Davis 2003b).¹⁵ Bernstein's native plants group had lost faith throughout the Working Group process and not endorsed the plan, so her group and other outside stakeholders' willingness to sue over this developers' destruction of vernal pools is not necessarily a surprise given what planners knew at the point of plan approval in 1997.¹⁶ Neither is it surprising that Habitat Action Now did not join the suit, given its pro-MSCP stance. What is surprising, however, is that Leath's Sierra Club chapter, which had endorsed the plan along with HAN, did join the suit, indicating that environmental groups did not stand by their formal endorsements of the (limited) consensus that had been reached (Pollak 2001, 29).

Traditional mobilization strategies and coalition-building among groups with similar interests continued to hold promise for non-elite stakeholders following the MSCP process; such groups justified their reversion to litigation and project-specific campaigns because they felt the implementation of the MSCP did not adhere to the spirit or letter of the negotiated plan. The alarm with which the Habitat Conservation Coalition responds to what it understands as an illegitimate renegotiation of the MSCP in the public sphere demonstrates the fragility of the "formal" agreement among the participants. A letter to the editor of the *San Diego Union-Tribune* from the president of the HCC reviews the purpose of the MSCP for those who have forgotten:

¹⁵ Caution must be used when interpreting litigation as a quantifiable measure of dissatisfaction with the plan. San Diego's ballpark planning process took six years and was the subject of seventeen lawsuits, eight of which were sponsored by one local developer (Heller 2004). For the purposes of this project, the participation of groups that had participated in the planning in later litigation is significant because the plan was specifically intended to forestall lawsuits.

¹⁶ Despite its involvement over the course of the planning process, Bernstein's group was not listed in the MSCP Final Draft acknowledgments of contributors, presumably because they would not have wanted to be associated with an endorsement of the outcome (City of San Diego 1998).

The plan was hailed as a national model for habitat conservation... That is why we read with great interest the story about opposition to the Salk Institute's expansion based on biological concerns. It is our understanding that the institute's proposed expansion is entirely on land authorized for development by the MSCP.... Our hope is that the MSCP plan is honored and respected, and that we not re-engage in the biologically ineffective and inefficient project-by-project, species-by-species battles. (Kilkenny 2005)

However publicly-oriented the MSCP deliberations were, and however long they took to negotiate, the formally-binding character of the resulting plan ended up surviving more on the honor and respect of a "gentlemen's agreement": that groups not reevaluate what they had stood to gain by cooperating in the plan with what they could gain through protest or litigation once the plan was actually implemented.

Newer organizations like the HCC, whose sole mission was HCP planning, were furious that the formal, state-centered process had not guaranteed the implementation of a binding contract. In 1999 testimony, one of the HCC's founders who participated in the Working Group asserted:

We continue to support the MSCP and HCPs in general, notwithstanding recent attacks on these plans by a variety of environmental groups. We are deeply concerned, however, with the long-term credibility of federal agencies to deliver to the participating jurisdictions and landowners what has been promised through these programs. For years during the MSCP planning process, we were repeatedly told by senior assigned management of the Department of Interior to "trust us." If we can't even trust that the federal agencies will do what is required under the Implementing Agreement contract, how can we trust someone's simple word in the future? (Committee on Resources 1999)

Environmental groups felt similarly betrayed by public officials, despite the complaints they had made about the lack of specifics when consensus was being reached: "We were repeatedly told, 'You're just not sophisticated enough to understand how this plan is going to work. Trust us'" (Pollak 2001, 16). That environmental groups sought to destabilize the formal MSCP agreements on individual projects illustrates the continuing informal consensus required to sustain public, formally-deliberated cooperative agreements. That contractual agreements were only as good as government officials' word was a shock for those developers most invested in the formal status of the assurances given in the process.

These challenges to the MSCP from organizations that had been participants in developing the original agreement demonstrate the complex relationship of formal agreement and the ongoing consensus it is presumed to generate. Theorists like Jane Mansbridge argue that “a history of successful action and mutual respect” (2003, 190) create reserves that can be drawn on when encountering divisive issues in the future. In this case, some skeptics were won over to the process as they saw that implementation was not as threatening as they had originally perceived. Partnership could be managed relatively easily when oriented towards collective ends, such as lobbying for outside MSCP funding. But maintaining the consensus over time required increasing work on the part of administrators, who faced turnover among parties to the agreement and complaints about the ways in which consensus was being implemented that threatened to derail the entire HCP model of preventing litigation. Diverse participants recognized over time that public, state-centered consensus was fragile and superficial inasmuch as it relied on continuing cooperation that was much more difficult to sustain. As early as 2001, a government-sponsored evaluation of the MSCP and other NCCP projects warns:

Because the NCCP program requires so much cooperation and collaboration, erosion of that consensus can undermine the continued viability of the program. The NCCP consensus in Southern California shows signs of strain. If the consensus broke down, stakeholders could begin throwing legal or political obstacles in the way of implementation. Or, stakeholders could simply decline to participate in the development of new NCCP plans elsewhere... Many of the complaints of both local governments and the regulated communities can be summarized with the rhetorical question, “A deal is a deal—or is it?” (Pollak 2001, 69)

The MSCP Plan was impressive as a document of the cooperation that had gone into producing it, and certainly represented a seven-year history of successful interaction and respect among those in the Working Group. Nevertheless, stakeholders recognized after the fact that formal cooperation was ultimately preliminary to the question of whether former collaborators would resort to litigation over implementation. Both environmentalists and developers claimed that government officials overseeing the process and its implementation had betrayed their trust by failing to implement the formal terms of the agreement in the way they believed had been

promised. These changes in perspective on the benefits of formal agreement over time demonstrate the limitations of increasing formalization as a method of inducing groups to reach consensus. Those who are once bitten by state-centered action may be twice shy about engaging in later formal decision-making efforts or trusting in the security of increasingly explicit standards, especially if they have already resorted back to alternative contention strategies. Inasmuch as Young and Mansbridge suggest that consensus and conflict-based strategies may be complementary, the breakdown of the MSCP into a few environmental moderate groups willing to negotiate within the MSCP and a larger number of environmental groups collectively litigating against MSCP decisions outside the process, certainly indicates action at cross-purposes that might destabilize the efforts of both.

Building Social Capital and Cooperation Outside the MSCP: Distinguishing between Informal Networking Capacity and Formal Institutions

A look at the tangible results (e.g. plans, policies, agreements, etc.) would ignore the crucial intangible outcomes (e.g. social, intellectual, and political capital, trust, shared understandings, relationships)... the intangible outcomes help “communities and organizations move to higher levels of performance and creativity in a constantly changing world”—even in cases where no tangible outcome could be achieved. (Brand 2005)

As described earlier, the large MSCP Working Group was significantly whittled down by the conclusion of the process. This consolidation of deliberation within a core group was largely voluntary, and on its own it does not refute the claims of Fung and Wright regarding the recursive benefits to be reaped from state-centered processes that secure ongoing “broad and deep” participation, especially the surplus stores of social capital such groups generate. This broader social benefit among the participants at the table is not necessarily destabilized by the exit of a few participants; “perpetual” participation cannot possibly extend to every individual participant, and those who exit may have built lasting relationships with other participants. As described earlier, even when deliberative theorists recognize practical difficulties, they still maintain that formal deliberation—even if imperfectly approximating democratic ideals of transparency and

inclusion—nevertheless represents a “powerful socialization experience” (Button and Ryfe 2005) that may provide a bridge to new forms of engagement. For this reason, I conclude my empirical comparison of perceptions of inclusion, transparency, and consensus-building in the Working Group with a comparison of perceptions of the collaborative social capital (Thomas 2003, 163-4) the formal process generated.

Some might argue that stakeholder perceptions linking the formal elements of the MSCP to challenges in inclusion, transparency, and consensus-building do not justify an argument against the overall aspirations of the MSCP. Without more evidence from the following chapters, these criticisms of formal process on their own certainly do not argue for the comparative benefits of more informalized processes. Indeed, most would acknowledge that getting environmentalists and developers to reach ongoing consensus when their stakeholding interests and their ideas of public benefit were so contradictory was ambitious at best. At the time it was started, many believed the MSCP might be a promising alternative to the status quo, and even if the effort has not fulfilled particular stakeholders’ aspirations for empowerment, equity, or agreement, real utopian theorists like Wright would assert that experimenting with different types of decision-making in pursuit of these goals is certainly worthwhile. If participating in deliberation serves as a “school of democracy,” the MSCP’s failures in achieving democratic ideals may simply have been lessons in what does and does not work in the complex world of San Diego politics.¹⁷ Many deliberative theorists like Innes and Booher (1999) and Mansbridge argue that participatory processes should be evaluated separately from their planning outcomes since the benefits of such processes extend to relationships and resources in the larger community, and “good deliberation will clarify both conflict and commonality” (2003, 180). According to these theorists, participating in deliberations like the MSCP should produce noticeable transformations in

¹⁷ Indeed, the California Department of Fish and Game has produced a document of “Lessons Learned from Regional Conservation Planning Efforts” that heavily emphasizes forty-one “lessons about collaboration,” many of which were learned the hard way through San Diego’s experience as a pilot project (2003, 1).

partnering down the road and in other venues as groups flex their deliberative muscles, regardless of the more immediate conflicts that arose within the MSCP.

For researchers of empowered deliberative democracy like Craig Thomas, HCPs' flaws are countered by these potential gains in social learning that can accrue over the course of deliberation: "In deliberative HCPs with broad participation, participants typically design a preserve system with other social benefits in mind... In doing so, they also develop social capital, including skills for deliberative practice" (Thomas 2003, 163-4). Mansbridge specifically notes that even despite problematic outcomes, "Habitat Conservation Planning... may have some transformative effects as a by-product" (2003, 187). Interestingly, theorists like Mansbridge classify such byproducts as empirically underdeveloped: "We don't know at the moment how important or likely are the 'independent desiderata' of personal transformation and better deliberation... We may now return to practice to ask, for example, whether the citizens themselves think that building solidarity is an important goal" (187).

These social capital benefits, while intangible and notoriously difficult to measure, could be just as, if not more, transformative of decision-making in the larger community than the democratic ideals more directly associated with engaging in the MSCP. Innes and Booher (1999, 419) list at least ten "second and third order effects" that may result from collaborative decision-making, among them new partnerships, better coordination and joint action, joint learning in the community, new collaborations, and new institutions. How did MSCP stakeholders perceive these external second and third order effects of the social capital achieved through the MSCP process? How important did they think subsequent partnering efforts, new collaborative institutions, and improved coordination with like-minded organizations were? Despite Mansbridge's claim that perceptions about the importance of solidarity are not well-known, stakeholders in San Diego acknowledged widespread consensus about the social benefits of partnering. As it turns out, participants in the formal process draw strict distinctions between the

benefits of informal networking capacity that such processes generate, and the benefits of the increasing number and variety of formal institutions dedicated to collaboration.

Stakeholders that had participated in the MSCP frequently invoked arguments linking participation with increased social capital and informal networking, regardless of their position in the Working Group. Even volunteers like Bernstein and Leath who chose not to continue their participation viewed the informal social benefits of participating in the process positively.

Angela Bernstein notes that the MSCP has been particularly effective in promoting networking with those outside her usual circles:

The one major benefit of doing the habitat plan is it brought a lot of different groups together and people networked a whole lot better. I have people who just cold call me because my name's in the bulletin under conservation. But most people feel a whole lot better if they've met the person before, even if it's just in passing. If they've seen the face, it's less hard to think about picking up the phone, so they communicate better. (Interview with author, January 2004)

Even when complaining about the difficulties of establishing these working relationships, none questioned the value of informal networking and cooperation.

For formal partnerships across stakeholder categories, stakeholder perceptions that partnerships were important in the abstract did not necessarily reflect their everyday actions. As a result, these partnerships failed to excite much enthusiasm despite infusions of funding from foundations to promote ongoing regional stakeholder partnerships that built on the MSCP. In a survey conducted by the California Department of Fish and Game (DFG) of forty-two stakeholders who participated in the MSCP, the most frequent recommendation from respondents was for DFG and other stakeholders to form partnerships (Nyce 2000, 14). Nevertheless, a thirteen-member partnership called the Naturelands Project, funded with \$15,000 from the BankAmerica Foundation and coordinated by DFG and the Nature Conservancy, had already been organized “to bring the many core interest groups together in one unified outreach and education effort” concerning the San Diego NCCP projects (Nyce 2000, 17). Begun in 1997 on the MSCP's completion, this project had already been discontinued by 2000. The difficulty of

sustaining spin-off partnerships across stakeholder categories was not unique to San Diego, and may reflect both the exhaustion of participants discussed earlier and the retrenchment in foundation grantmaking that occurred in the late 1990s and early 2000s. South Carolina “Downstate Conservancy” executives had had similar experiences with maintaining enthusiasm for broad regional partnerships in the late 1990s, and had also changed strategies to focus their energies on projects with quantifiable results by 2003. In any case, when the money used to create incentives for forming such partnerships dried up, formal partnerships were easily abandoned. But given the conflicts groups experienced within the MSCP, one might suspect that enthusiasm for leaping into similarly broad partnerships with the same partners might be limited. What about partnerships within categorically similar organizations like agencies, cities, or environmental groups?

Questioning the Returns of Proliferating Formal Institutions: Agency Officials and Interagency Cooperation

While those who see the promise of HCPs as at least enabling greater interagency cooperation and multi-jurisdiction planning, if not greater empowerment on the part of everyday citizens (Karkkainen 2003; Thomas 2003), the increased efficacy of interagency partnering on projects outside the MSCP would be the most likely benefit of any improved relationships, coordination, and resource-sharing generated through the MSCP. In fact, the MSCP did set the groundwork for agency partnering in later NCCP projects in areas of the county not covered by the original MSCP. But leveraging the cooperation of the MSCP to other habitat plans or to other projects proved very difficult, despite deliberative democracy theorists’ hopes regarding the translation of deliberative and social partnering skills gained through deliberative processes to other contexts. Public planners and government officials in particular questioned the depth and breadth of formal partnering efforts across jurisdictions and among agencies at multiple scales.

Field-level officials point to the distinction between widespread agreement on the importance of partnering and minimal commitment to the hard work of making partnerships worthwhile to explain the lack of follow-through in developing regional institutions. The agencies themselves experience extreme pressure from their administrative hierarchies to facilitate cooperation and partnership, but little guidance on how to define what such partnerships are supposed to accomplish. One county official engaged in HCP planning complains “[FWS] were supposed to be the authorities... The whole process of the plan was like trying to construct something in a pitch black room and somebody saying ‘you’re kind of close’” (Anderson and Yaffee 1998, 16). Veronica Tanner from the state coastal agency describes the lack of defined benefits behind this interest in partnering and participation:

People need to believe in the partnership. Our [wetlands project] is a good example. It’s a house of cards. There’s nothing that compels any of the agencies to participate aside from good will. It could easily just fall apart, but the reason it hasn’t seems to be because partner agencies have bought into the idea that partnership is valuable for them. (Interview with author, February 2004)

The current moment may indicate a vogue for this style of networking, but higher-level officials at the agency have more time and capacity to engage in partnering without obvious direct incentives, as Veronica notes that such efforts are largely voluntary and motivated by “good will.” Jeffrey Ecker describes how relations with state officials may allow for a consultative role for the county but by no means do they enable consistent coordination with the wildlife agencies’ acquisition priorities for the region, a potential concern since the jurisdictions and agencies are supposed to split the responsibility for acquisitions:

Sometimes some of this goes on that we don’t even know about, the state and federal government will do a lot of purchases that we’re not directly involved in... They may come around and say “Well, here’s a list of twelve properties that we’re thinking of putting in for that funding, what do you guys think?” And we may get an opportunity to say, “Yeah, it’s good and maybe this ought to be the highest priority,” and maybe they’ll listen to us and maybe they won’t. So that happens. So it’s really—there’s some formal mechanisms, there’s some ad hoc mechanisms. There’s a whole bunch of us that are all trying to accomplish the same thing. (Interview with author, February 2004)

Veronica Tanner of the state coastal agency points out that there is virtually no ability within the region for municipal officials to coordinate on their own without outside help, which puts state administrators in the uncomfortable position of trying to engineer participation from the top-down:

The biggest challenge has been groups working together both within subregions and within southern California as a group. The [wetlands project] was started by state and federal agencies because there was no coordination in the region from local groups, NGOs, municipalities—like it often gets referred to as a top down approach, but that is because there was no bottom up approach that was happening. We’ve tried to build that in reverse. (Interview with author, February 2004)

An Orange County NCCP official in Richard Hogan’s study of Southern California planning bluntly spells out subregional rivalries and lack of coordination as the status quo in San Diego politics:

‘Fragmented ownership and municipal infighting are [major problems]. None of the cities trust each other. [The regional association of governments] has [illusions] of grandeur and nobody trusts them’... The problem in San Diego was ‘small subregions and lack of cooperation.’ (Hogan 2003, 101, second brackets mine)

The regional association of governments (SANDAG), an agency formed in the 1970s specifically to cope with regional planning issues, has been both a facilitator and occasionally an obstacle in the complex politics of regional coordination (Hogan 2003, 72).

As Bastian and Luckham (2003) point out, and as federal and state officials also found in the other two cases, engineering grassroots participation through top-down coordination is extremely difficult. Once projects to cooperate locally are under way, the connections made locally with the help of outside facilitators do not always survive in transplantation to other contexts. Within later multiple species planning efforts, leveraging cooperation from the MSCP is not necessarily the rule—in part because many of the players are different. Ecker, the county planning official, minimizes but does not dismiss the lack of coordination among these efforts within the county’s own jurisdiction: “There’s a parallel effort going on with the North County cities and SANDAG is doing it. And we were part of that at one time and we pulled out because we had a little splitting of the ways with SANDAG” (Interview with author, February 2004). The

relationships built at the Working Group table did not generate better relations or smoother cooperation for agencies and jurisdictions outside the MSCP, as Craig Thomas and other deliberative democracy theorists hope.

On the one hand, the MSCP did inspire similar habitat conservation projects for adjacent regions in North County and East County. On the other hand, the jurisdictions that had participated in the MSCP did not cooperate down the road to develop the joint funding source required by the plan. Ecker, who was so proud of how much cooperation the groups in the MSCP planning could show when they lobbied in Washington for federal funding, acknowledges that when the issue is deciding how groups will contribute their own money to the regional funding source mandated by the plan, stalemate is common: “There’s a regional funding source requirement which is how [funding is] supposed to happen, by the way, but that has never come together because it takes a lot of cooperation” (Interview with author, February 2004). Partnering to request outside funding is relatively easy for the MSCP stakeholders, but the partnering relationship becomes much more complex when negotiations involve committing their own resources to common goals.

This lack of a regional funding source mandated by the plan is the most notable failure in developing new collaborative institutions out of the MSCP, particularly since this new funding source was agreed to within the MSCP itself. The Final MSCP Plan provides that:

A requirement of the MSCP implementing agreements is that local jurisdictions and other take authorization holders cooperatively establish a regional funding source within 3 years of signing the initial implementing agreements [July 17, 1997]... The jurisdictions will identify a new or existing structure or policy body for establishing this funding source... The MSCP Working Group identified the following options for such a coordinating body:

- An existing single jurisdiction as the lead agency;
- An existing association or committee of local jurisdictions; or
- A new open space/conservation district, board, committee, or commission created by the local jurisdictions.

(City of San Diego 1998, 5-21, bullets in original text)

Stakeholders from the development community blamed the vagueness of the funding plan for difficulties in implementing a new regional coordinating body for funding. Developers expressed

concerns as early as 1994 that the funding plan should be more detailed, fearing that inadequate implementation would jeopardize the security of their take permits or they would get stuck with the bill (Pollak 2001, 28). Blaming the lack of specifics for funding the plan does not entirely account for the lack of coordination among regional governments, particularly since they have been active in pursuing funding on their own to adhere to other equally vague provisions for acquisitions under the plan.

Reports of this failure note that “local governments have failed to carry out a promise to set up an assured source of money to buy land and run the preserves” (Davis 2003b). In fact, local jurisdictions have proceeded in assembling preserves “until a regional funding source is secured” through interim funding plans using diverted monies from sources like the California Tobacco Fund (Goldberg 2001). The city planning director’s memo from 2001 reported that “the City continues to be successful in securing state and federal grants, but obtaining matching local funding continues to be a challenge to future grant efforts” (Goldberg 2001, 5). In other words, obtaining state and federal grants for the project was becoming a problem since the city could not demonstrate the required local match for additional grant applications. By pursuing property acquisitions without an endowment for monitoring and management in place, the jurisdictions were making a risky gamble. Principal Partners in the Great Bay Partnership ran into similar difficulties on conservation acquisitions without endowed management secured in advance, but Task Force members in the ACE Basin saw such gambles as dangerous, ineffective, and avoidable—interesting in that Task Force members were the least accountable of the three groups.

This “get it now, pay later” philosophy was particularly problematic in a densely populated area where edge effects like trash dumping and off-roading need constant attention and can destroy the habitat value such purchases were intended to protect (Pollak 2001). Another city report from June 2005 states that conservation efforts were strictly in crisis mode, oriented towards keeping the habitats from being degraded for lack of attention: “Management for

biological resources has been primarily focused on maintaining the existing biological values of habitat under City control. Once a regional funding source is established, opportunities for more extensive biological management activities could be pursued” (Greer 2005, 7). A government evaluation of the MSCP and other NCCP processes found that “there are major uncertainties about funding needed land acquisitions, science, monitoring and habitat management” (Pollak 2001, 1), a finding that caused amendments to the NCCP Act assuring funding for monitoring. Whereas the MSCP provided incentives for cities or agencies to participate as partners in developing policy, without such incentives, local jurisdictions and agencies with limited capacity and rivalry for resources have very little incentive to continue partnering. Federal and state agency officials are inconsistent in involving local decision-makers in their own planning, and instead try to coordinate top-down local planning efforts to encourage bottom-up coordination.

Questioning the Substance of Feeling Good: National NGOs at Arms’ Length

Nine years after the MSCP was developed, and six years after a new regional institution should have been in place, no coordination in regional funding has materialized. In the absence of regional coordination, the Nature Conservancy stepped in as a stopgap measure and steered funds reserved for transportation mitigation towards regional habitat conservation in a controversial sales tax reauthorization (Transnet) approved in November 2004. Not surprisingly, the working group that decides how to spend these funds involves six nongovernmental organizations (NGOs), including pro-MSCP stalwarts HCC and HAN (SANDAG 2005). The Environmental Mitigation Program Working Group’s charter was revised in 2005 to specify that its duties will also include assisting “with the development of a regional funding measure (a ballot measure and/or other secure funding commitments) to meet the long-term requirements for implementing habitat conservation plans in the San Diego region” (SANDAG 2005, 1). In the words of TNC staffer Ben Lowry, trying to encourage formal partnership among local jurisdictions from the top-down is less effective than deploying TNC capacity surgically when

local jurisdictions cannot come through on their own: “The way I envision it, we’re like Shaquille O’Neal, and they’re everybody else... We’re a little bit of an anomaly in the way it helps for us to be an anomaly. Because we were able to go in and affect Transnet” (Interview with author, March 2004).

Elites engaged in land conservation financing and conservation deal-making—those at the large NGOs critical to conservation acquisitions of the kind specified in the MSCP—express frustration with the enthusiasm for formal partnering over ground-level cooperation in making land deals happen. The “usual suspects” engaged in partnership efforts that grew out of the MSCP do not necessarily include relevant NGO actors whose activities directly affect planning politics. These NGO elites engage in broadly-inclusive partnerships only when necessary, and it is critical to ask these political insiders why they opt out in order to understand why powerful organizations skilled in partnering absent themselves from partnership institutions in the county. Christopher Sigler and Joshua Guertin, two project directors for the Trust for Public Land, a national NGO that transfers land to public agencies, work in San Diego but are based in San Francisco and fly down as needed. They openly admit, “We didn’t go to a lot of meetings since we’re involved with purchase” (Interview with author, April 2004). Sigler acknowledges that he and Guertin are skeptical of most meetings to coordinate regional planning, since the majority of these groups just involve getting the same assortment of people sitting down at yet another meeting. Sigler reports on the frustration expressed at the most recent effort to begin one of these partnerships: “People were grumbling at the scoping meeting that this was a waste, whether because things had failed in the past or because it was just another meeting to attend. That new age stuff does not help. It’s a lot of feel good, not a lot of deals” (Interview with author, April 2004). Sigler boasts that his group, which spends such limited time on the ground in the region, has conserved 18,000 acres in eighteen years, the best record of any group in San Diego.

Despite their belonging to a national environmental NGO engaged in private financing for public projects, for Sigler and Guertin, getting to yes must take place outside of the MSCP

negotiating table. The all-important individual property purchases required for land conservation in San Diego do not revolve around partnership tables and usual suspects at all, but around personal relationships with large private landowners and key players in local government and the development community. Veronica of the state coastal agency avers, “In San Diego and elsewhere, there is a core group of people whose names seem to crop up over and over again. You need to go beyond that group to make things happen” (Interview with author, May 2004). Deal-makers do not have the patience for what they see as the time-wasting “feel good” of partnering and deliberating in large groups with vaguely-defined ambitions for consensus.

As compared to the more informal conservation regimes discussed in Chapters Four and Five, the mechanics of Sigler’s and Guertin’s activities most closely mimic the machine-like activities of conservation insiders. But what makes conservation machines powerful is their coordination of competition in deal-making and their united front against development, while remaining connected to politically-conservative contacts in the brokerage community. Like the conservation machine insiders, Christopher and Joshua keep a low profile, but this also inhibits capacity-building and knowledge-sharing. Paradoxically, San Diego has a “usual suspects” problem that excludes some of those who could be most helpful in facilitating proactive land purchases and promotion of standards and practices in land management. While key NGO elites like Ben Lowry claim that they remain at arms’ length from local politics because local organizations are “the future of conservation in San Diego” (Interview with author, March 2004), they nevertheless have little compunction about their “function as the gorilla”—and make dramatic interventions when needed. These players care less about deliberating on whether one undeveloped parcel is more ecologically valuable than another and more about gaining access to information on which parcel is available or likely to be developed. Since the MSCP focuses so heavily on conserving land *in exchange* for development, powerful conservation organizations tend to use other inducements to negotiation (usually money or tax breaks) with landowners and

would prefer to circumvent the deliberation table altogether.¹⁸ High capacity participants with experience in formal partnerships question the recurring emphasis on participation over substantive cooperation among those in the core group of high profile organizations that emerged from the MSCP.

Navigating Productive Relationships among Environmental Organizations: Linking Backyard Environmentalism to Larger Ethics

The NCCP program has divided the environmental community and others active in conservation causes. Nearly all support the broad objectives of the NCCP program, but some have grown to distrust the process and its results. (Pollak 2001, 30)

Researcher evaluations of the MSCP process typically assert that it divided the environmental community. It is true that the plan adopted by the City of San Diego was endorsed by only some of the environmental groups that had been involved in the Working Group process, was opposed by most environmental groups that had provided input unofficially, and even produced split opinions between local chapters and their state-level organizations. Many environmental veterans despaired that a process into which they had put hope and effort ended in a stinging defeat and internal turmoil for many environmental organizations—and not least, a rising profile for a new development-friendly environmental organization that largely acted independently of the mainstream environmental groups. This bitterness and rancor should not be understated, as it still evoked passion in 2004 interviews, seven years after the process had been concluded. The participant who asserted that planners had really listened to environmentalists' concerns lamented "But we didn't prevail" (Pollak 2001, 19). Nevertheless, as participants themselves learned, plan approval was not the end of the story.

In fact, for many organizations in the environmental community, the initial divisions created through the formal process galvanized later efforts to unite environmental organizations more effectively. Their MSCP experience produced experimentation with new alliances—with

¹⁸ As the failure of the Naturelands project suggests, this may in part be a reaction to having tried and not gotten very far by going the route of direct, horizontal partnerships.

social justice groups and a libertarian anti-growth group—and led to coordinated litigation against the MSCP and more strategic attempts to mobilize the general public, foster grassroots engagement in new “backyard” organizations, and build a horizontal networking and resource-sharing institution specifically devoted to the needs of local and regional nonprofit conservation organizations. These efforts that grew out of the MSCP developed substantive social capital within the environmental community and are, in the terms of Innes and Booher, second and third order successes of exactly the sort heralded by deliberative theorists, although they are oriented towards a different form of engagement.

Bemoaning the failure of the Naturelands Project as evidence of the failed promise of social capital supposed to be generated through the MSCP would ignore the fact that such a project had to fail, not because the participants were not interested in uniting to educate the public about the MSCP, but because they could not possibly unite with their former collaborators since they did not want to spread the same message. Participating in the MSCP Working Group did not stimulate greater capacity or enthusiasm for participating in later working groups or formal broad-based participatory institutions like the Naturelands Project, but it did stimulate interest among environmental groups in creating new institutions and informal alliances with those who had not participated in order to educate the public about the dangers of habitat conservation planning implementation. In Jane Mansbridge’s terms, the experience of deliberating in the Working Group clarified conflict as well as commonality (2003, 180)—and this conflict actually increased solidarity among environmentalists who had at the start of the program been divided by their approach to formal participation.

This outcome is especially interesting because it points to an area of weakness in the more informalized partnerships in the following chapters, where accomplishments in voluntary conservation achieved through informal alliances with the business community tend to stimulate tensions between larger environmental groups and those with lesser capacity, who either avoid conservation altogether or compete with other low-capacity local organizations for resources

from the regimes. Whereas social capital has been leveraged in interagency partnerships and among elites and local and regional jurisdictions much more effectively in the more informalized partnerships, social networking within the larger environmental communities may have suffered as a consequence. Without painting an overly rosy picture or overstating the collaborative social capital developed among environmental organizations in San Diego, this section describes the efforts following the conclusion of the MSCP process to make connections and encourage tolerance among a highly diverse group of organizations separated by missions, mobilization strategies, great distances, capacity, and a variety of other obstacles. These messy and partial efforts to stimulate grassroots coordination without resorting to hierarchical administration may have been dismissed by many as chaotic—including deliberative theorists like Thomas (2001)—but this disarray and combination of formal and informal strategies in part was perceived as contributing to collaborative success.

Not having a single large, high capacity environmental membership organization with longstanding history in the area created a noticeable vacuum in the MSCP process in terms of leveraging the coordination of environmental organizations to negotiate enforceable terms—a vacuum that HAN easily filled by claiming to represent a coalition of local organizations at the start of the MSCP process.¹⁹ Gradually, the environmental organizations in San Diego have built local networks and infrastructure to collaborate more effectively since, as the deliberations continued, HAN's prominence was not based on synchronous positions with those of the other organizations. National chapter organizations began making use of the eyes and ears of members of neighborhood groups to sound alarms during MSCP implementation, and started and supported very small groups of this sort with limited capacity. Angela Bernstein reports on the efforts of the chapter of a national environmental group to start small groups of locals to assist in monitoring and implementation of good management practices for specific areas: “Sierra Club has been trying to start a canyon group for each canyon, having the energy and the people to do that kind

¹⁹ Later, HAN dropped this league identity and became a membership organization (Pollak 2001, 28).

of thing” (Interview with author, January 2004). In an area as large as San Diego county, this distributed model was practically effective at alerting the larger groups to potential problems:

Sierra Club is trying to develop these local groups to take ownership and then the different organizations make themselves available to help in any way they can, so if people need plant information, then they come [to us], or if you work with them ahead of time to develop that. And when there’s a problem, you try to let them know to help them do their stewardship better. (Interview with author, January 2004)

While volunteer canyon groups oriented around engagement based on residential affiliation (“backyard” groups) work at the smallest scale of geographical concern, larger resource-focused conservancy groups based on river watersheds or coastal lagoons can also connect smaller groups through the watershed and share capacity and resources for volunteer restoration outings; frequently river or lagoon groups are operated out of small offices and have biologists on staff.²⁰

Despite smaller groups’ limited capacity, the larger environmental groups in the area see these entities as a critical engine for their own missions. Bernstein describes how networking with grassroots organizations is crucial to gaining support from elected city or county officials:

We do try to network but it’s usually only with other environmental organizations here. That’s the only way we get most of what we get done done. The way I’ve found works is you have to get to the politicians. The way you get to the politicians is providing them with information and then providing them with their own citizens who feel strongly about something that are *outside your organization*. So you work with grassroots groups that are canyon-based or issue-based and have them do a lot of lobbying because generally those are who the City Council people or the Board of Supervisors want. (Interview with author, January 2004, emphasis mine)

As Bernstein shows, very small volunteer groups can and do become engaged with the assistance of larger chapter groups with less “local” authenticity—and larger groups depend on smaller groups to give their concerns legitimacy in the eyes of decision-makers. This is a drastic difference from the partnerships on the East Coast, which perceive very small groups as largely irritating obstacles to decision-making finesse.

²⁰ This is highly unusual for small East Coast land trusts of the same ilk, which are usually run by lawyers or those with experience in real estate. In general, biologists and ecologists participate far more frequently as professionals and volunteers in the San Diego site than in the New Hampshire or South Carolina site.

The New Hampshire partners see the infighting, lack of capacity, and instability of small groups as a time-consuming diversion and a threat to sound decision-making since such groups are more likely to be induced to negotiate unfavorable deals with powerful developers or transportation departments. The partnership in South Carolina rejects small groups with little record of achievement even if they ask to participate, while New Hampshire's Principal Partners frequently complain that backyard groups are parochial and lack a broader interest in public benefit. These differences in perspective on the potential of backyard groups to make viable contributions on a regional scale are instructive in that the smallest groups in San Diego do not attempt to participate officially in comprehensive planning efforts like the MSCP and as a result are not perceived as threatening to broader environmental missions. The MSCP's highly technical focus makes small groups less useful to developers who might use their engagement to make tradeoffs, and this diminishes their threat to the larger environmental community. Such groups rarely venture into the professionally-dominated "big leagues" of NCCP decision-making itself, and allow larger groups to interpret for them the ramifications of the MSCP in their particular area of interest. Thus, small groups are important to lawmakers and larger environmental groups partly for their status as non-deliberators.

In the absence of a larger regional conservation advocacy group, local groups try to coordinate on an ad hoc basis for purposes as varied as field trips and litigation. Bernstein describes the importance of leveraging cooperation when deciding to sue: "Uniting with other groups makes things more likely to get done, so when we do lawsuits we tend to get a lot of groups together to do that" (Interview with author, January 2004). But the rich diversity of the San Diego environmental landscape also produces obstacles to working together, particularly since environmental justice groups and recreational/wildlife groups have very different missions. Similar diversity of scope is represented by groups focused on ocean conservation and pollution versus those focused on land-based wetland resources and preserve areas. In trying to build a

coalition of environmental groups concerned about how MSCP land at the U.S./Mexico border would be affected by a triple fence, Bernstein notes significant obstacles:

We tried to get a coalition of both environmental and social justice groups together and we never could really make it work out because our interests are different. If they [the Department of Homeland Security] avoided the environmental damage, we wouldn't be opposed to a triple fence. And social justice people can't even go there. So now it's more a matter of keeping people informed about what we're doing and where we can unite, we do. (Interview with author, January 2004)

Despite the failure to generate a formal coalition, horizontal networking within the local environmental community is robust and proactive, and thus is effective at generating responses to emergencies or opportunities for repeated engagement such as field trips, restoration projects, and beach cleanups. The sheer diversity of environmental groups prevents their working together at times, and certainly generates conflict between groups on particular issues, but as in the case of border issues, larger environmental groups have found a way to work together informally on a consultative basis without compromising their missions. Some groups have even discovered new alliances from these efforts, as with a surfers' environmental group that collaborates with social justice groups, border issue alliances, and Mexican conservation groups on cross-border conservation issues (many Southern Californian surfers also surf in Mexico).

Instead of having a regional "go-to" group for environmental issues in general, the San Diego conservation community cultivates strong lateral ties among the local chapter organizations and has slowly worked to develop a new institution devoted to coordinating the efforts of conservation groups in particular in order to provide a more democratic representative body. The local foundation became more invested in capacity-building for environmental organizations in the 2000s, and has a dedicated staff person (married to the surfers' group director) who works on assisting groups with grant-making and project development in the area. As I was conducting my research, local conservation groups had begun building a local resource networking organization called the Conservation Resources Network (CRN) with the help of the foundation to provide capacity and information technology to smaller groups to enable them to

become more engaged in the sorts of state-centered conservation policy-making that has been prohibitively time-consuming and scientifically complex in the past. The website of the newly formed network avows: “The founders of CRN believed that there should be an organized and unified voice for cultural and natural resources conservation at the table when important public policy matters were under discussion” (San Diego Conservation Resources Network 2004). Those involved in brainstorming discussions agreed that this should mimic the already existing horizontal organization of San Diego’s environmental community, and should be in the format of a new NGO to manage the coalition, to identify where “holes” lacking subregional representation existed, and to support the formation of new organizations in these places. Forty organizations participated in the planning, and eighteen have joined as members (Conservation Biology Institute 2003). HAN has been involved in getting CRN off the ground, but the top leadership of CRN has been drawn from representatives of local land trusts and resource-based conservancies.

The experience of the MSCP and the rise of HAN has caused San Diego’s community of conservation organizations to ally for litigation, to reach the general public by mobilizing volunteer canyon groups for monitoring and restoration activities, and to develop a new institution to centralize capacity and promote the interests of conservation organizations more effectively in future planning processes. San Diego’s robust landscape of participatory, democratically-run volunteer organizations is often messy and lacking in formal coordination, but it also allows for diverse environmental ethics ranging from social justice to endangered species to backyard conservation, and these are generally perceived among the groups as legitimate differences that can be useful for mobilizing different constituencies and getting the attention of politicians. By comparison, the mobilization of different environmental groups in South Carolina and New Hampshire focuses on a highly coordinated and regimented discourse of traditional uses, voluntary conservation, and public benefit, and differences of mission or scale-orientation are intentionally obscured and minimized.

The Promise of Empowered Deliberative Democracy: From Collaboration to Litigation over the MSCP

Even Virginia Reade of the Birders' League, who had such enthusiasm for the leverage her group could gain by participating at the formal negotiating table, openly admits, "The MSCP is a last gasp. It's not the answer for conservation—too little, too late" (Interview with author, January 2004). Less predictably, state officials and those working for NGOs that facilitate and fund public conservation land purchases see the MSCP as largely irrelevant to both conservation and their ongoing work acquiring properties. Veronica Tanner, an official with the state coastal agency, says, "I'm not an expert but I haven't been all that impressed that much has changed in terms of better stewardship up front. The MSCP is proactive in that it's looking ahead, but it's reactive in that it says development will continue as it has continued" (Interview with author, May 2004). One environmental activist reports, "I spend most of my time today chasing individual projects, which is what I did before. I have as many projects to fight today as ever, but less tools to fight them with... I think we would have had just as good a protection without a plan" (Davis 2003b).

These assertions that the MSCP did little to change the prospects for habitat conservation and endangered species may be true in the long run. However, the MSCP substantially changed the prospects for formal participation and collaboration in environmental decision-making in San Diego County. Deliberative theorists who understand the MSCP as an experimental process whose failures may prove instructive in the future seem not to consider the extent to which perceived failures to achieve participatory democratic ideals change participants' attitudes to the promise and worth of later processes, however much these have incorporated the lessons from earlier challenges. For many environmental groups, participation in formal efforts in San Diego is perceived as carrying little benefit since a development-friendly environmental organization has gained stature and legitimacy through HCP processes at the expense of groups less able to reach consensus with developers. For those national players looking to make the biggest mark in

terms of assembling viable habitat, the politicized negotiations for recognition in the decision-making community that go on at the planning table are too time-consuming and simply irrelevant to the property-oriented deal-making and negotiation with funders and individual property owners that take place on smaller scales but with more substantive impacts. The transparency that planners sought to maintain in the MSCP provided little solace to those who were allowed to observe the proceedings, who nevertheless believed that decisions were made behind the scenes. For those who were parties to consensus, the formal endorsement of the plan was only the beginning of increasingly difficult efforts to maintain the formal consensus while the plan was being implemented. With little common ground and personal trust underlying the terms of the agreement, former collaborators reverted to litigation. Given these difficulties, planners' decisions to abandon the theatrics of public deliberation and formal consensus for a private, consultative model in later processes is not surprising, and caused little stir among those who knew all too well the limited potential of formal participation.

The formal implementation of the MSCP as a new decision-making forum in San Diego allows us a chance to see how the formal elements of participation might nest into the informal networks of the political community in counterintuitive ways, and with inconsistent results. While the multi-volume plan itself memorializes the process through which it was reached,²¹ the results for the decision-making community over the long-term are less fixed and less clear—and this in itself is a striking outcome, since the MSCP was intended to introduce bureaucratic rationality and a consistent blueprint for all future negotiations into what had been a chaotic, fragmented, and contentious arena. While the MSCP emphasized formality to the exclusion of informal participation, backstage negotiation, and provisional agreement, the MSCP process was actively destabilized by the marginalization of these everyday realities—and with little tacit agreement on what had been formally agreed to, consensus immediately began to erode. On the

²¹ Rolfe specifically examines in comparative case studies how the MSCP maps reflect plan negotiations and plan process (2000).

other hand, the formal process inadvertently increased the value of non-participating small-capacity backyard groups to larger environmental groups, and increased the value of less professional participants to agency officials being pressured for consensus by their superiors.

For deliberative theorists, the potential disappointments of the MSCP in producing inclusion, transparency, and consensus-building through the process may be countered by the deliberative skills and deeper understanding of each others' needs and interests participants gained. For those willing to overlook the direct outcomes of the MSCP for the intangible social capital benefits of participating in deliberation, the outcomes are even more intriguing. While all understood the value and difficulty of maintaining informal networking relationships, feelings about the value of formal partnering were far less consistent. While many agreed that interagency, interjurisdictional, and broad-based partnerships were appreciated by outsiders and useful for lobbying in Sacramento or Washington, turning political capital into resource-sharing was a far more challenging prospect, and formal partnerships often died in ground-level implementation for lack of any substantive agreement beyond the idea that partnership was, in the abstract, a good idea. Nevertheless, the San Diego environmental community, which most had viewed as irreconcilably divided by the conclusion of the final plan, had in fact reached a greater understanding of how to work together and ally effectively for particular issues without compromising their diversity of mission or sublimating organizational goals to a more powerful group. The hard lessons learned through the disappointments of democratic participation in the MSCP had been converted into wisdom about where and how conservation groups needed to come together more effectively.

In conclusion, the fate of HCPs as a testing ground for empowered participation in land use politics is similar to that of the fate of ballot initiatives as exemplars of "direct democracy" in the area of legislation. The wave of ballot initiatives in the late twentieth century was seen by political researchers and practitioners as a promising potential avenue towards greater citizen empowerment and participation. As the ballot initiative process became a forum dominated by

politicians, interest group professionals, and profit-seeking entrepreneurs (Bowler, Donovan and Tolbert 1998, 176), so participation in habitat conservation planning is likely to be mastered relatively quickly by a few powerful, elite professionals and entrepreneurial interest groups like HAN and HCC. State and national environmental organizations were terribly concerned that local environmental groups would not understand that the formal venue of the MSCP could lead to cooptation.

But just as California voters' resounding rejection of Governor Schwarzenegger's ballot initiatives in the 2005 election were interpreted as a referendum on voters' frustration with the misuse and overuse of ballot initiatives (Hirsch and Mann 2005; *New York Times* 2005), so the reversion to litigation by local environmental groups in California can be interpreted as evidence of the speed with which the transformation of formal deliberative processes into professionalized interest negotiations is apprehended by stakeholding participants. Litigating can eviscerate the security developers and agency officials gain through formal power-sharing with select environmental groups. The move to sue against, rather than participate in, HCP decisions demonstrates a changing perspective on the supposedly complementary effects of conflict and consensus-based strategies. Rather than condemning the formal MSCP for insufficiently living up to participatory ideals or unevenly transforming the social capital and deliberative aptitude of participating stakeholders, I instead compare it in the following chapters to informalized conservation planning partnerships formed exclusively of powerful, elite conservation professionals. Investigating the tradeoffs these partnerships make in sacrificing inclusion and transparency for substantive consensus-building and social capital formation can produce a much better picture of the relationship between formal democratic ideals and empowerment in U.S. communities.

OFFICIAL PARTICIPANTS

Multiple Species Conservation Program	Great Bay Resource Protection Partnership	ACE Basin Task Force
Working Group Mayor's Office, Chair Habitat Conservation Coalition*, Vice-Chair Sierra Club County of San Diego Citizens Coordinate for Century 3 City of San Diego Building Industry Association Naval Facilities Engineering Command The Baldwin Company McMillin Communities San Dieguito River Park Joint Powers Authority Pardee Construction Company City of Santee U.S. Fish and Wildlife Service The Trust for Public Lands City of Chula Vista San Diego Association of Governments Habitat Conservation Coalition* City of Poway San Diego Wild Animal Park Audubon Society San Diego County Water Authority California Department of Fish and Game San Diego Metropolitan Transit Development Board San Diego Gas and Electric Company Habitat Action Now* The Nature Conservancy Caltrans San Diego County Farm Bureau	Principal Partners The Nature Conservancy Ducks Unlimited U.S. Fish and Wildlife Service New Hampshire Fish and Game Dept. Forestlands Forever* Natural Resources Conservation Service New Hampshire Audubon Great Bay Natl. Estuarine Research Res. Community Partners 24 municipalities Local Conservation Groups (varies) Affiliates U.S. Environmental Protection Agency New Hampshire Coastal Commission	The Nature Conservancy Ducks Unlimited U.S. Fish and Wildlife Service S.C. Department of Natural Resources Downstate Conservancy* Nemours Wildlife Foundation MeadWestvaco Corporation Private Landowners Affiliate ACE Basin National Estuarine Research Reserve

*Indicates pseudonym

Additional Official Participants Recognized in the MSCP

Policy Committee

City of San Diego Mayor, Co-Chair
 County of San Diego Supervisor, Co-Chair
 City of Chula Vista Councilman
 City of Santee Mayor
 City of Encinitas Mayor
 City of Chula Vista Councilman
 City of Escondido Councilman
 City of Poway Mayor
 City of Chula Vista Mayor
 County of San Diego Supervisor
 City of San Diego Councilmember (2)
 City of Del Mar Councilmember
 City of Oceanside Deputy Mayor
 City of Solana Beach Mayor
 Camp Pendleton Marine Corps Base
 Colonel, ex-officio member
 U.S. Navy Commander, ex-officio member

San Diego Dialogue Committee for MSCP**Local Funding**

Federated Department Stores, Chairman
 Sierra Club
 John Burnham & Co.
 Continental Homes
 Center City Development Corp.
 Building Industry Association; Highland
 Partnership, Inc.
 San Diego Natural History Museum
 Fieldstone Communities, Inc.
 Greater San Diego Chamber of Commerce
 Scripps Bank
 SDG&E
 Bank of America
 Mayor of San Diego's Office
 Danielson Trust Co.
 Bank of America
 County Supervisor's Office
 Habitat Conservation Coalition*
 Stoorza, Ziehaus & Metzger
 San Diego Dialogue (2), staff
 The Nature Conservancy, staff

Contributors providing input formally recognized in the MSCP Plan

Over 200 scientists, engineers, financing consultants, and representatives from interest groups, municipalities, including:

Resource Agencies

Bureau of Land Management (4)
 California Coastal Conservancy (2)
 California Department of Fish and Game (7)
 California Resources Agency (2)
 U.S. Environmental Protection Agency (2)
 U.S. Fish and Wildlife Service (10)
 Department of the Interior (5)
 Biological Resource Division, USGS

Special Purpose Agencies and Other Groups

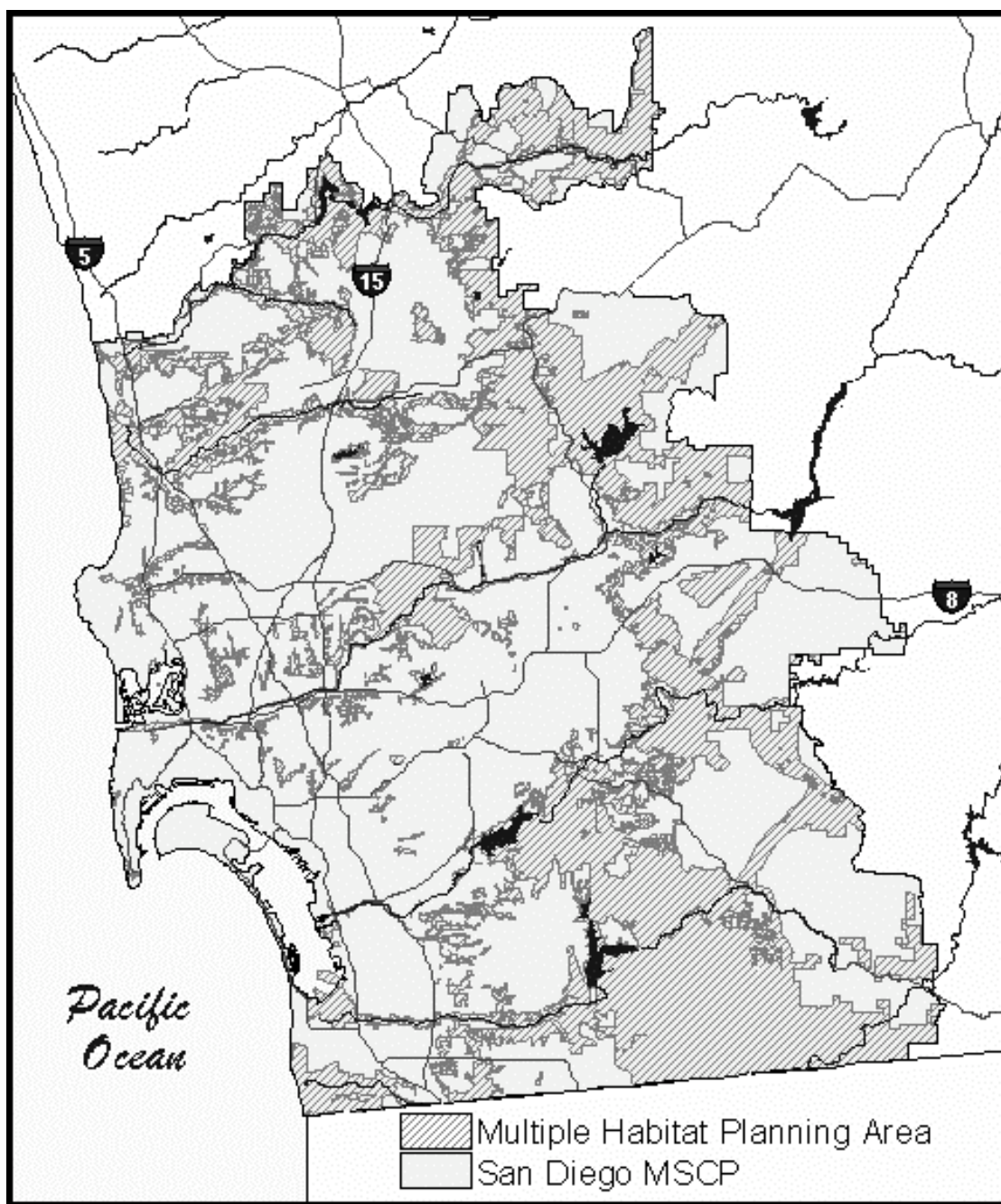
California Department of Transportation (2)
 Sierra Club (2)
 Birders' League of San Diego*
 Habitat Action Now*
 California Audubon Society
 Habitat Conservation Coalition* (4)
 The Nature Conservancy (5)
 Center for Natural Lands Management (2)
 National Fish and Wildlife Foundation (2)
 Anza-Borrego Springs Foundation
 Alpine Natural Lands Conservancy
 San Dieguito River Park (2)
 San Diego Zoological Society (2)

Acknowledged but Unidentified Participants

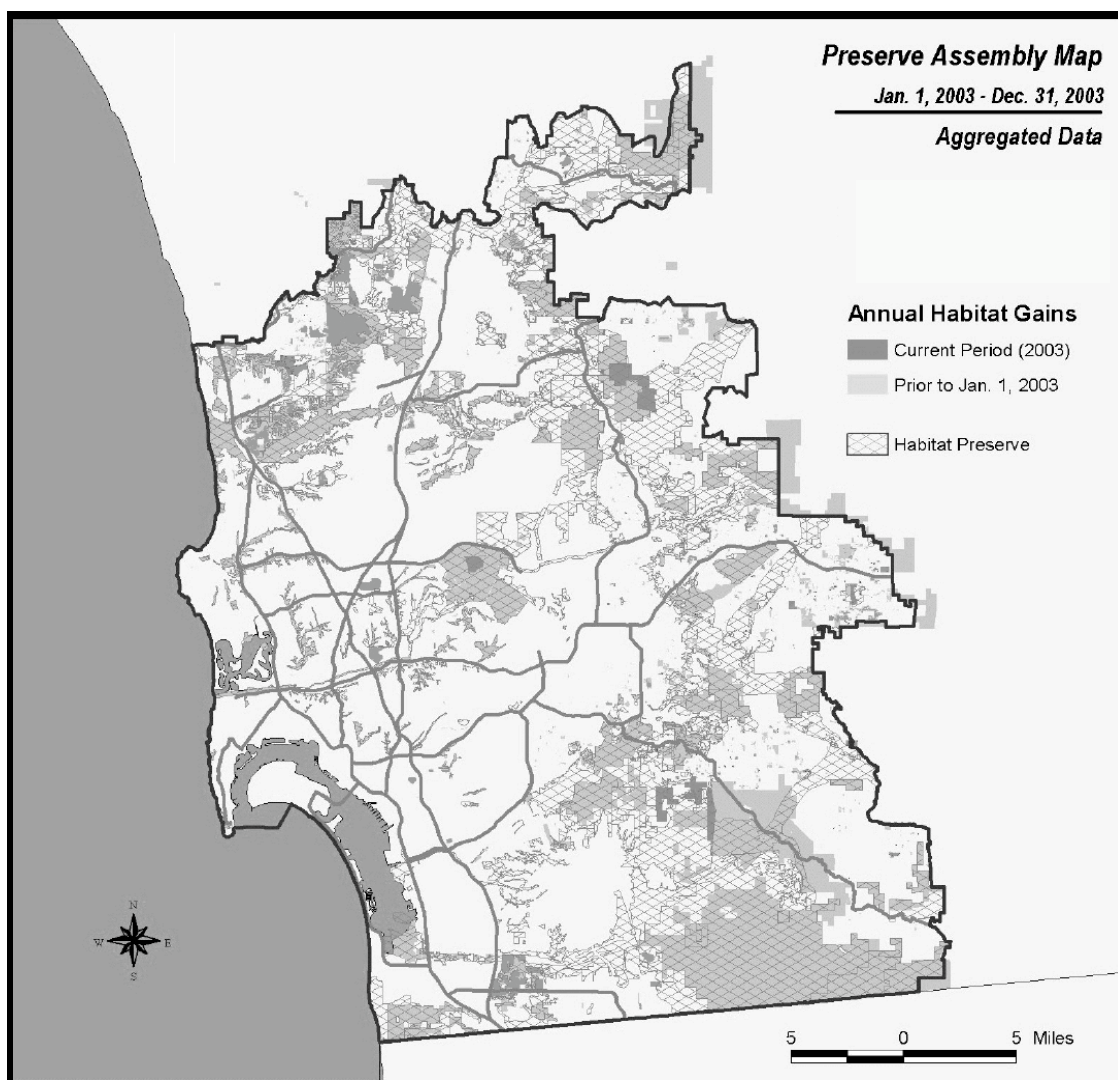
Unknown number of property owners

*Indicates pseudonym

MAPS



Map 1: MSCP map showing Multiple Habitat Planning Area (area within which conservation acquisitions are targeted). (CA Department of Fish and Game 2006, http://www.dfg.ca.gov/nccp/mscp/sd_mhpa.htm)



Map 2: MSCP map showing all conserved land with Multiple Habitat Planning Area overlay ("Habitat Preserve") as of December 31, 2003. (Adapted from CA Department of Fish and Game 2006, http://www.dfg.ca.gov/nccp/mscp/preserve_assembly.htm)

LIST OF ACRONYMS AND ABBREVIATIONS

CA	California
CESA	California Endangered Species Act of 1984
CRN	Conservation Resources Network
EDD/EPG	empowered deliberative democracy/empowered participatory governance
EPA	United States Environmental Protection Agency
ESA	The Endangered Species Act of 1973
EIR/EIS	environmental impact review/environmental impact statement
FWS/USFWS	United States Fish and Wildlife Service
HAN	“Habitat Action Now”
HCP	habitat conservation plan
HCC	“Habitat Conservation Coalition”
IAP2	International Association of Public Participation
TNC	The Nature Conservancy
TPL	The Trust for Public Land
MOU	memorandum of understanding
MSCP	Multiple Species Conservation Program
NAWCA	The North American Wetlands Conservation Act of 1989
NAWMP	North American Waterfowl Management Plan of 1986
NCCP	California Natural Communities Conservation Planning Act of 1991
NEPA	National Environmental Policy Act of 1969
NERR	National Estuarine Research Reserve
NGO	non-governmental organization
NOAA	National Oceanic and Atmospheric Administration
NWR	National Wildlife Refuge
SANDAG	San Diego Association of Governments
WMA	Wildlife Management Area

GLOSSARY OF CONSERVATION TERMS

Assurances. Also referred to as “no surprises” provisions, assurances are provided to developers receiving federal and state incidental take authorizations (see below) that they will not be required to perform additional mitigation in the event that circumstances or information about impacts on species change. This security was the principal reason why developers were so enthusiastic about the MSCP, because it allowed them to estimate more definitive project costs and timing, essential for real estate investments financed with loans. The “no surprises” guarantees provided by the federal government in habitat conservation planning have been the subject of lawsuits by environmental groups. Many have argued that “no surprises” assurances should balance security and species conservation more effectively by having sunset dates, given that information about species needs is necessarily limited at the time of the agreement.

Conservation easement. A conservation easement is a binding, voluntary legal agreement that places permanent development restrictions on a specific property. Easements are customized to the property according to the current landowner’s interests, and may allow for some limited additional development, or provide for management practices that ensure preservation of the property’s open-space or habitat value. Because easements are permanent and non-adaptive, they are deeded with the property if it is sold to another owner, who must abide by the restrictions even if unforeseen circumstances have arisen in the interim. Easements can be purchased or donated to an easement holder, who promises to monitor and enforce the restrictions in perpetuity, and their value varies depending on the current uses of the property and its development potential. For properties without much use value in their undeveloped state, conservation easements may be assessed at close to the market value of the property. Conversely, if the property

has little potential for development (because of zoning limitations or restrictions on infrastructure), but high value under its current use, conservation easements may be assessed at much less than the property's market value.

Corridor. A wildlife corridor is a byway that allows protected species movement between habitat fragments. Corridors may be natural, like riparian corridors, or manmade, like a drainage ditch, tunnel under a highway, or hedgerow. Often manmade corridors constructed for the express purpose of wildlife movement are relatively ineffective because they require a precise understanding of animal behavior. E.g., mountain lions may prefer to cross a highway rather than go through a tunnel because they perceive the tunnel as more threatening. Riparian corridors and contiguous properties are the predominant focus of land conservation efforts aimed at reducing fragmentation. Corridors are often called "greenways" by conservationists.

Edge effects/encroachment. Edge effects occur when conserved habitat areas are in close proximity to land under other uses, like roadways, housing developments, etc. Residents may treat conserved properties as dumping grounds, or animals within habitat areas may be threatened by toxics from roadways or domestic predators. Physical encroachment occurs when people use conserved lands for unapproved uses, such as keeping large animals like pigs or dogs, raising marijuana, teenagers' party spots, building fires, etc.

Endangered. The Endangered Species Act defines endangered as "any species which is in danger of extinction throughout all or a significant portion of its range."

Fragmentation. Habitat fragmentation results when parcels of land are small and separated by

distances or other barriers that prevent wildlife movement. Fragmentation also degrades habitat quality by increasing edge effects. Because of existing habitat fragmentation, many land conservation efforts focus on preserving existing or potential wildlife corridors.

Incidental take permit. An incidental take permit or authorization lets developers remove or destroy species in a designated place, as long as the species' survival or recovery is not in jeopardy and their activity is "otherwise lawful" and inadvertent (that is, such activity is not the intended purpose of the developer; some developers have responded to the ESA by preemptively grading property to remove species that may be listed in the future). Incidental take is authorized by federal and state agency officials upon approval of a conservation plan addressing "potential impacts, mitigation measures, funding, alternatives, and other measures deemed possibly necessary" (San Diego County 2006). In the MSCP, USFWS and California DFG agency officials transferred their authority to grant incidental take permits to planning officials at the county and city level.

Mitigation. Mitigation in this context is activity intended to compensate for or diminish anticipated impacts of development. Laws regarding mitigation vary by state and municipality. Mitigation may occur on the site itself, or may allow for developers to purchase and conserve habitat of similar value or acreage in another site. Mitigation is relatively controversial not on principle but because there is much disagreement over issues of who gets to determine what mitigations are appropriate, where they should be, and when additional mitigation may be necessary. Conservationists typically argue about the comparative quality or equivalence of substitute habitat sites, since often these are proposed by developers based on their existing holdings. Criticisms of "poor quality" mitigation refer to conservation of land with little development or habitat potential, often

jokingly referred to as highway medians. Conservation groups frequently refuse to accept funding or conservation projects related to mitigation because accepting these funds allows development to go forward. As a result, governments may maintain mitigation “banks” in which developers can purchase habitat credits for high quality or high priority land projects.

Riparian. Of or on a river bank and its adjacent land. Maintaining riparian areas is critical to maintaining water quality because the vegetation affects erosion and filters contaminants.

Take. The Endangered Species Act defines take as meaning “to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct.” Both the ESA and the California Endangered Species Act include habitat modification as a potential form of take.

Takings. Confusingly, take applies not just to landowners’ destruction of species but to government appropriations of private property according to the Fifth Amendment, which states that land cannot be “taken for public use without just compensation.” Beginning in the 1920s, the Supreme Court expanded the definition of such appropriation to include “regulatory takings” in cases where regulation severely restricts a landowner’s use of a property, most recently including owners of property who knowingly purchased the property under restrictions already in place (*Palazzolo v. Rhode Island* 2001). For obvious reasons, this interpretation of takings threatens the viability of conservation easements, and has prompted renewed attempts by conservationists to emphasize the voluntary nature of conservation easements. Because subsequent buyers receive a reduced purchase price for the property, they are compensated at the time of sale for the restrictions.

Waterfowl. Waterfowl are game birds that can swim, such as ducks and geese.

Watershed. A watershed is an area of land defined by a common drainage outlet. Drainage outlets include lakes, rivers, and oceans.

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