

As Habitat Plans Stall, County Reaps Profits

The county sells its dwindling coastal sage scrub to developers under what was supposed to be a temporary plan adopted nearly 15 years ago.

By [ROB DAVIS](#) Voice Staff Writer

Tuesday, May 29, 2007 | When developers in San Marcos want to build homes atop coastal sage scrub -- a dwindling habitat that's home to the rare California gnatcatcher -- they turn to San Diego County's government for help.

Over the last decade and a half, developers have destroyed 183 acres of scrub in San Marcos, paying San Diego County \$879,000 for the right to do so.

Supposed to Be Temporary

- **The Issue:** In exchange for the right to oversee development in federally protected areas, a group of North County cities agreed to formulate long-term conservation plans. Nearly 15 years later, those plans remain unfinished.
- **What It Means:** Each government received the right to develop an allotted amount of sensitive land as conservation plans were being developed. The county has offered its allotment up for sale to developers, removing an incentive for cities to finish their plans.
- **The Bigger Picture:** San Diego's habitat plans, once lauded as pioneering efforts, have been beset by delays, funding issues and other problems.

Their ability to build on the habitat was supposed to be temporary. Under a compromise forged to help North County cities develop after the California gnatcatcher became threatened, the cities were granted the ability to destroy 5 percent of the habitat while they worked on a long-term conservation plan.

But San Marcos and other cities throughout North County have continued to exploit the provision nearly 15 years later, failing to finalize their long-term plans while developing hundreds of acres of sensitive land that might not otherwise have been paved over.

The county has profited off the practice, allowing developers in those cities to purchase its allotment of land and watering down the cities' incentives for completing conservation plans. It has earned more than \$1.5 million on the endeavor.

"This was set up to provide development to move forward while the planning process was ongoing," said Janet Fairbanks, a former senior regional planner who oversaw habitat planning at the San Diego Association of Governments. "It was never intended to go on as many years as it has."

When a small bird, the California gnatcatcher, was listed as a federally threatened species in 1993, cities and developers throughout San Diego County faced a serious problem.

The bird's listing had the potential to paralyze development throughout the region because it would have restricted construction atop the bird's habitat. About 2,500 pairs of the bird remain, and its habitat is found across the county.

Cities needed a way to allow development to continue without requiring each project to be reviewed by the federal government, which is charged with protecting endangered species.

As a result, San Marcos and six other North County cities agreed in the early 1990s to develop habitat conservation plans,

which would serve as blueprints for future development. Instead of the federal government, local cities agreed to become the birds' protectors, deciding when housing projects could move forward and when habitat could be destroyed. Instead of the piecemeal project-by-project development of the past, the plans were supposed to protect crucial habitat while still allowing homes and businesses to be built atop lesser quality habitat.

In return for their promises to adopt habitat plans, the federal government gave each city credits to pave over 5 percent of its coastal sage scrub -- the habitat home to the California gnatcatcher. The credits were supposed to allow development to continue in cities while the plans were being written.

Many cities quickly paved over the coastal sage scrub they'd been allotted, and their habitat plans were still years away from being finished. So they turned to the county for help.

Because of San Diego County's size -- it's nearly as large as Connecticut -- its government received permission to destroy 3,000 acres of coastal sage scrub, much more than what the smaller cities received. Instead of hurrying to finish their habitat plans -- as had been intended -- cities began purchasing the county's credits.

Each government's allotment had been intended to provide pressure. Conservation plans would have to be finalized by the time the allotment ran out. But by selling its credits, the county took the pressure off.

Development continued, the habitat plans stalled, and the county profited.

Fourteen years have passed since San Marcos and other North County cities promised those plans. With the exception of Carlsbad, none have been completed.

Patrick Murphy, director of planning and building in Encinitas, said major hurdles have not been overcome in most cities, such as how to pay for the protection and maintenance of land designated for conservation.

"This city is wanting to do what's right, but there are some financial implications that we simply cannot afford," Murphy said. "We would have hoped [the plan] would be further along than it is today."

The county offers the credits for sale at \$30,000 an acre. A developer can pay the county that sum to build atop an acre within a city's limits, in exchange for preserving one of the county's acres. No city has returned to the county for help more times than San Marcos, where the population has grown 39 percent in the last six years.

Critics say the practice is a major reason why most North County cities have not finalized their habitat plans. As long as developers in those cities can use the county's credits, critics say builders and city officials have little motivation to complete the habitat plans. If the county didn't sell the credits, developers' projects would have to be approved by the U.S. Fish and Wildlife Service, not a local city council, a step that could submit the project to delays and significant costs.

"It is a bad-faced agreement that is playing out in front of us," said Michael Beck, San Diego director of the Endangered Habitats League, an environmental nonprofit. "They're using the benefits of the program -- the stuff that's good for them -- and they're ignoring the responsibilities."

The county has acknowledged that it has removed incentives for cities to finish habitat planning. County staff recommended abolishing the practice in 2002, but county supervisors ignored the recommendation.

In a 2002 memo, county staffers wrote: "Continued approval of these requests may have adverse effects on the County. Development approvals ... may detrimentally affect linkages and corridors in the unincorporated [county]."

The county's land-use director, whose department oversees the credits, did not return a call for comment.

Environmentalists say the county policy helps isolate bird species and other wildlife. Ideally, gnatcatchers in Rancho Santa Fe would be able to interact with gnatcatchers in Fallbrook, said David Hogan, conservation manager at the Center for Biological Diversity. The birds and other animals utilize natural wildlife corridors -- migration paths -- to get from

one place to the other. Severing those corridors with development can isolate the birds and limit their mating options. Over time, biologists say that isolation reduces species' genetic diversity and long-term chances of survival.

"The cities were given a way to continue destroying habitat without adequate conservation," Hogan said. "And they fully exploited that."

After initially giving the credits away for free, the county adopted a formal policy to govern their distribution in 1998. But in the nine years since, the county has applied its standards inconsistently. The policy provides several ways to reimburse the county:

- Developers can pay \$30,000 per acre. Developers of Loma Alta, a housing development in San Marcos, were charged \$37,500 per acre in 2002.
- Developers can purchase credits in a land conservation project located in San Diego County. Credits must be purchased at a 3-to-1 ratio. A San Marcos senior housing project bought credits in 2001 at a 1-to-1 ratio. So did a San Marcos project approved in 2002. The Board of Supervisors unanimously approved both.

The U.S. Fish and Wildlife Service declined comment about whether it condoned the sale of credits, though a spokeswoman said the service has been "talking to the county" on the issue.

The service, as well as land planners and environmentalists, says San Marcos has much to do before its habitat plan is completed. Fairbanks, the former SANDAG planner, said she was not optimistic the city would finish the plan. "I'm not holding my breath," she said.

"No one seriously believes that San Marcos will ever complete their plan," said Hogan, from the Center for Biological Diversity. "And why would they? There's no incentive. They can keep killing endangered species without repercussions."

San Marcos city officials did not return calls for comment, though San Marcos Mayor Jim Desmond left a voicemail saying he hoped the city would discuss its plan "in the very near future." He could not be reached for follow-up comment.

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