

Santa Clara Valley Habitat Plan

**Public Draft Plan,
EIR/EIS and IA
Public Meeting**

February 9 & 15, 2011



SANTA CLARA VALLEY HCP/NCCP PARTNERSHIP



 Jones & Stokes

Presentation Outline

- Habitat Plan Overview
- Conservation Strategy
- Cost and Funding
- Project Examples and Implementation
- EIR/EIS Public Review & Comment
- Next Steps

What is the Habitat Plan?

- **Mitigation/Conservation Plan for Development**
- **50-year Permit Term**
- **Programmatic Endangered Species Permitting**
- Conserve species and habitat in perpetuity in Santa Clara County in exchange for permit to “take” threatened and endangered species



- **Habitat Conservation Plan (HCP)**
Complies with Federal Endangered Species Act
- **Natural Community Conservation Plan (NCCP)**
Complies with California NCCP Act

SCV Habitat Plan Origins

- USFWS Sect. 7 Biological Opinion (2001) recommended HCP
Hwy 101 widening (San Jose to Morgan Hill), Bailey Avenue interchange
Hwy 85/101 interchange, Coyote Valley Research Park
- Local Partners bound by MOU (June 2004)
Santa Clara County
City of San Jose
Santa Clara Valley Water District
Santa Clara Valley Transportation Authority
- Cities of Gilroy and Morgan Hill join Plan in 2005
- NCCP Planning Agreement signed by all October 2005
- Participating Agencies: CA Dept. Fish & Game (CDFG) and
US Fish & Wildlife Service (USFWS)
- Stakeholder Committee & General Public



What the Habitat Plan Will Do?

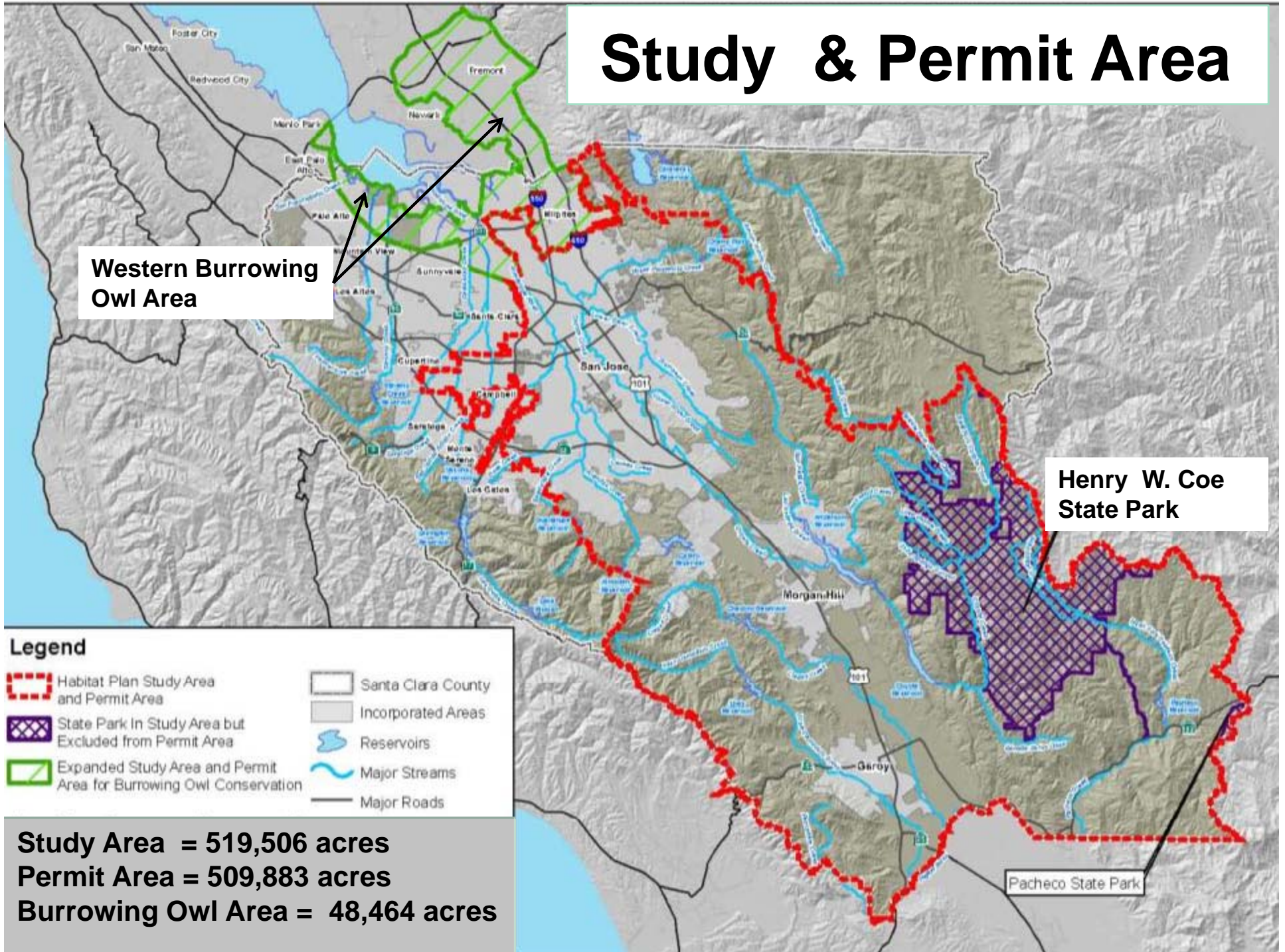
- **Provide comprehensive open space/conservation/restoration.** Protection and enhancement of highest value habitat areas.
- **Provide permits.** USFWS & CDFG issue permits for “take” of listed species to Local Partners.
- **Streamline projects & Improve local control.** Local Partners extend this take authorization to applicants who meet Plan requirements.
- **Pre-defined mitigation.** Provide large-scale habitat/species conservation in areas of high biological value—avoid project-by-project approach.
- **Provide new money.** Attract new sources of state and federal funding for conservation in County.
- **Provide new resources.** Helps implement General Plans, climate change policies, local flood control/water supply projects, and protects watersheds.
- **Maximize park and open space expansion.** Creates more open space and critical habitat for species within the County.

Schedule

- Early 2011** Local Partners public review until **April 18, 2011**
- Mid 2011** Prepare Final Plan, EIR/EIS & IA,
Establish Implementing Entity (JPA)
- Fall 2011** Adopt Plan, EIR/EIS & Implementing Agreement
- Late 2011** Wildlife Agencies issue Endangered Species
Permits
- Early 2012** Local Partners adopt local ordinances

Summer 2012 -- Start Plan Implementation

Study & Permit Area



What Species are Covered?

10 Plant Species

- Coyote Ceanothus
- Fragrant Fritillary
- Loma Prieta Hoita
- Metcalf Canyon Jewelflower
- Most Beautiful Jewelflower
- Mt. Hamilton Thistle
- San Francisco Collinsia
- Santa Clara Valley Dudleya
- Smooth Lessingia
- Tiburon Indian Paintbrush

11 Wildlife Species

- Bay Checkerspot Butterfly
- CA Tiger Salamander
- CA Red-legged Frog
- Foothill Yellow-legged Frog
- Western Pond Turtle
- Golden Eagle
- Least Bell's Vireo
- Tri-colored Blackbird
- Western Burrowing Owl
- San Joaquin Kit Fox
- Townsend's Big-eared Bat

What Projects will be Covered?

Covered Activities

Activities and projects receiving authorization to “take” species over 50-year term.

Major Categories

- Urban Development
- Rural Development
- New Public Infrastructure
- Public O&M, Capital Projects and Facilities
- SCVWD Activities
- Reserve System Improvements



Plan Coverage

Covered by the Plan:

- ◆ Private projects needing development permits (building, grading)
- ◆ Public sector building and other construction projects
- ◆ Public sector operations and maintenance work

Not covered or Exempt from the Plan:

- ◆ Private projects not requiring building, grading or development permits
- ◆ Projects on < 0.5 acre parcels
- ◆ Structural additions < 2,000 sq ft of impervious coverage

Agricultural & Ranching

No Habitat Plan approval needed if:

- ◆ Routine agricultural or ranching activities
- ◆ Construction does not require building, grading or development permit
- ◆ New or expanded vineyards not needing a county permit
- ◆ Routine tree and landscaping maintenance
- ◆ Structural additions < 2,000 sq ft of impervious coverage



Land Use Planning/Permitting

Habitat Plan does not approve any new development

Habitat Plan addresses endangered species issues

- Current Permitting – Project by Project
- New Process – Habitat Plan Program

Conditions of Approval

- Based on current BMPs
- Plant surveys for rare species (serpentine/riparian areas)
- Stream/riparian setbacks based on habitat importance

Setback Distance on Streams

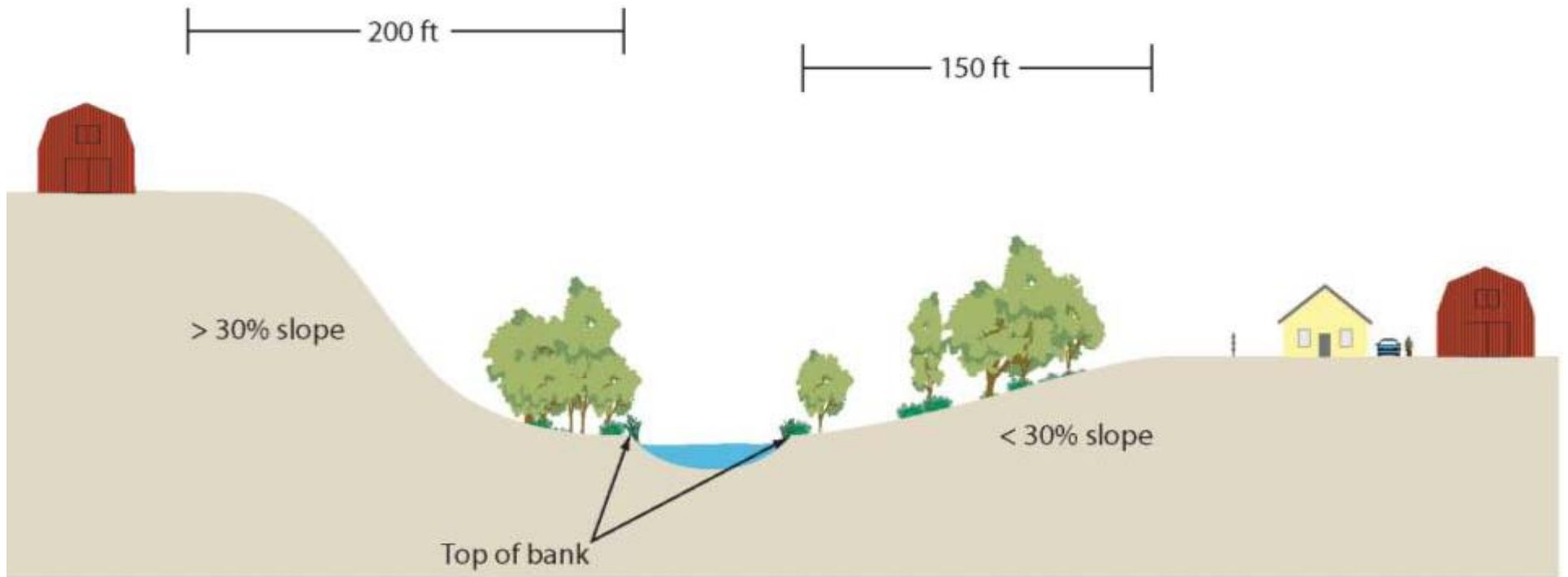
| Slope Class | Fish Bearing Streams | | Non-Fish Bearing |
|-------------|----------------------|-----------------------|------------------|
| | Inside Existing USA* | Outside Existing USA* | |
| 0-30% | 100' | 150' | 35' |
| > 30% | 150' | 200' | 35' |

Fish Bearing Streams = Main Creeks in Study Area (e.g. Uvas, Guadalupe, Coyote, Llagas, and Pacheco)

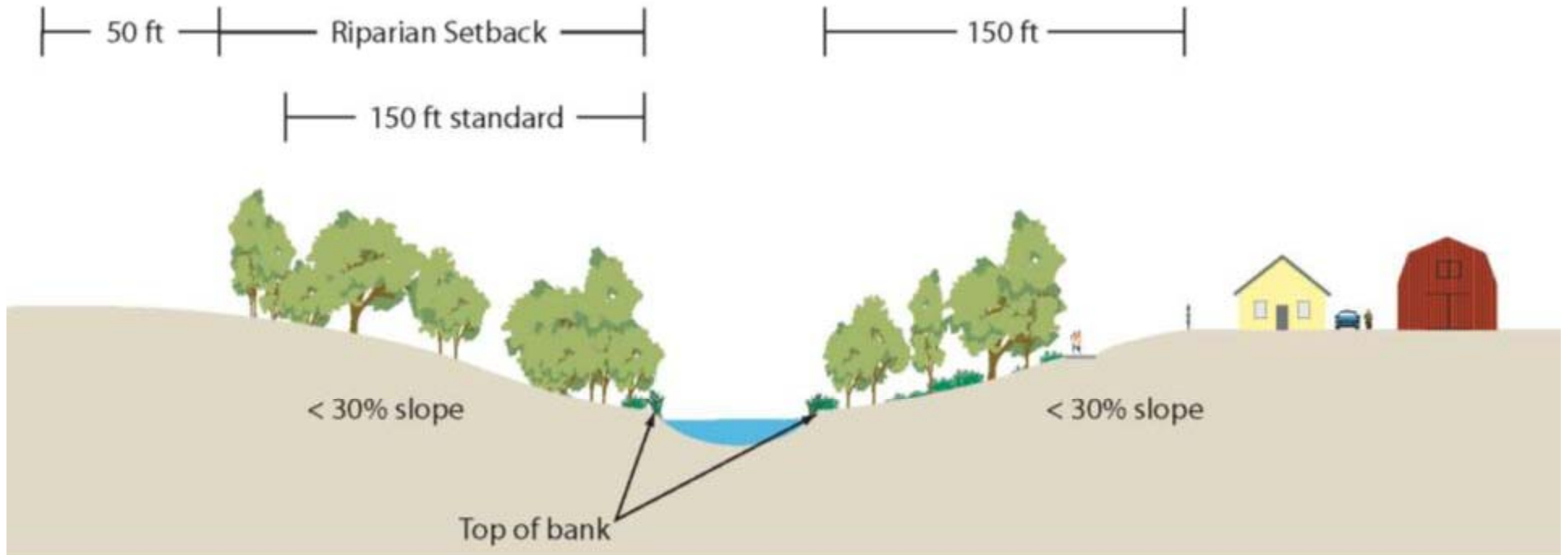
*USA = Urban Service Area

**If riparian vegetation exists, setback is 35-50 ft beyond edge of riparian area

Stream Setback – Slope Example



Stream Setback – Riparian Vegetation



Stream & Riparian Setback

Rationale for Riparian Setbacks

- Riparian areas provide important habitat for several covered species (e.g., California Red Legged Frog)
- Provide regional linkages and movement corridors

Setbacks based on Four Factors

- Fish-Bearing Streams
- Urban vs. Rural
- Slope
- Riparian vegetation



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Conservation Strategy Highlights

- ◆ **Reserve System** of ~58,000 acres to benefit species and habitat

Acquisition of 45,000 acres *from willing sellers*

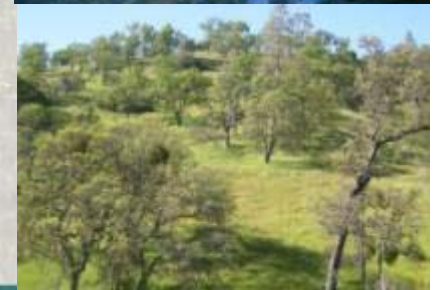
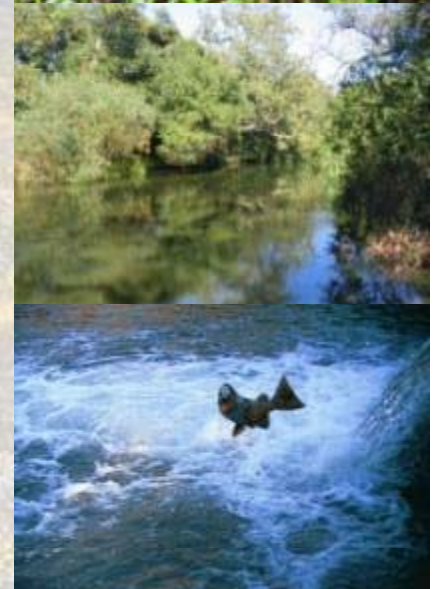
Contribution of 13,000 acres from County

Provision of public recreation and access

- ◆ **Landscape Linkages**

Wildlife corridors

Address climate change needs



Conservation Strategy Highlights

- ◆ **Restoration**

 - Up to 566 acres of degraded habitats
 - 12.6 miles of degraded streams

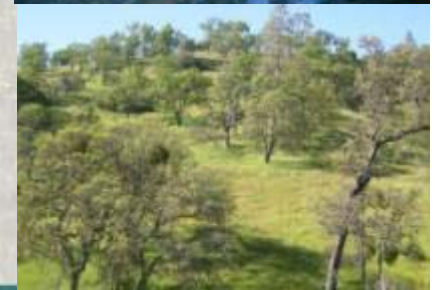
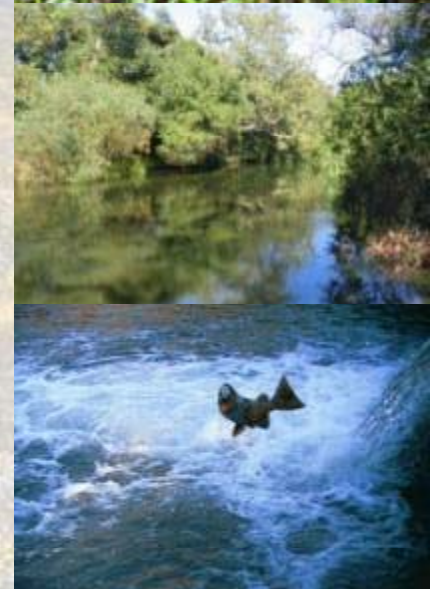
- ◆ **Focused Conservation Actions**

 - Covered species

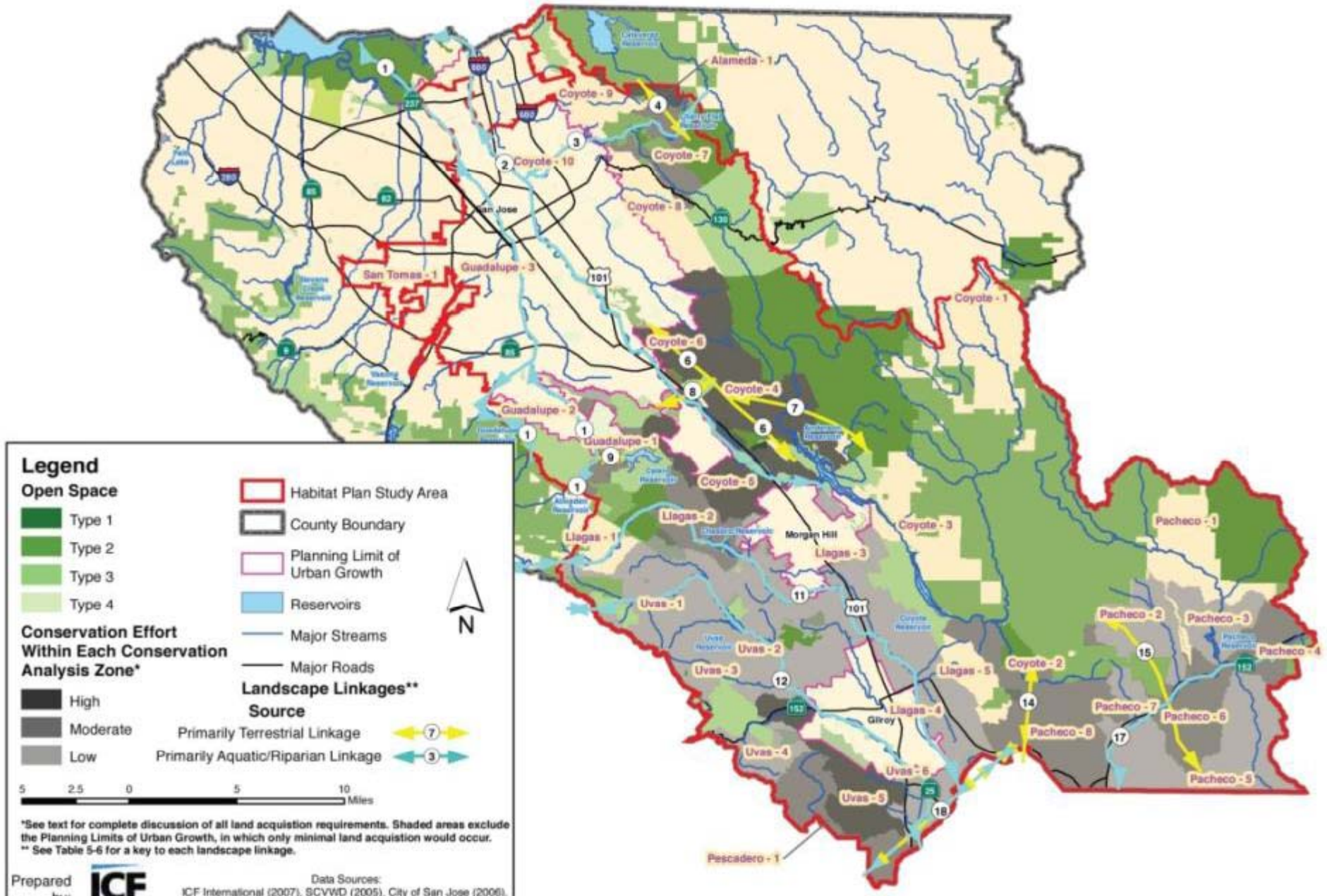
 - Natural communities

- ◆ **Long-term Management & Monitoring**

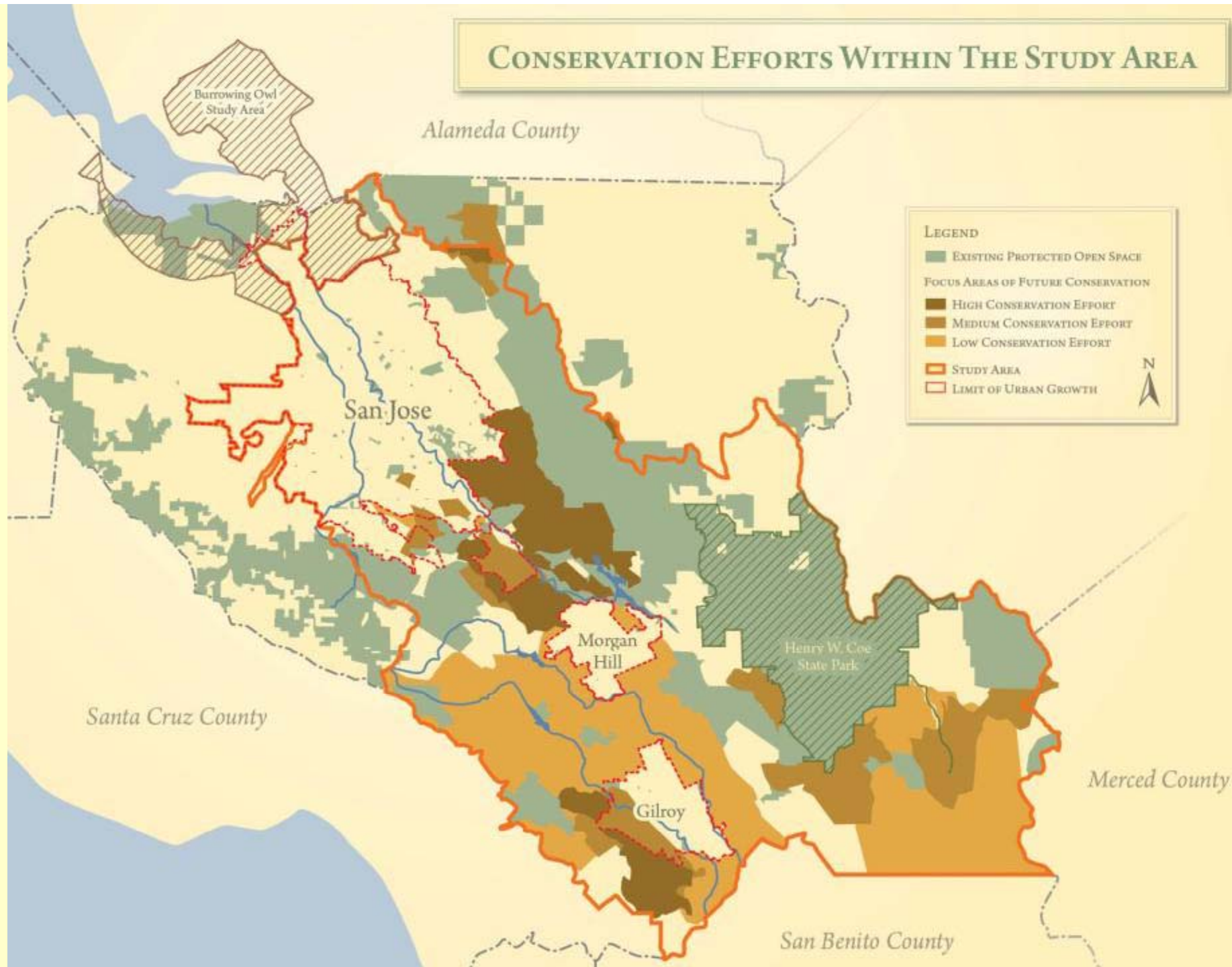
- ◆ **Post-Permit Land Management**



Landscape Linkages



CONSERVATION EFFORTS WITHIN THE STUDY AREA



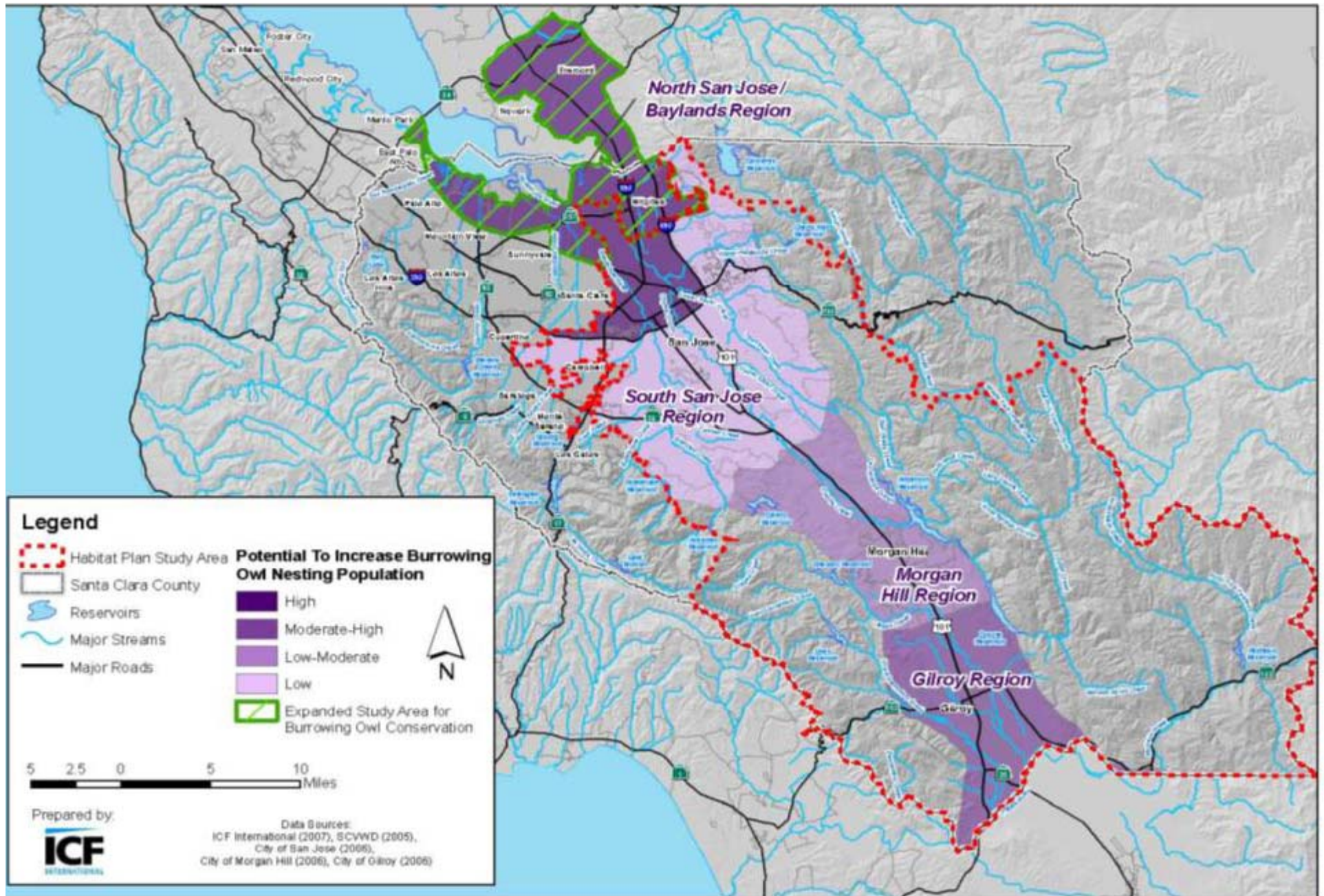


Figure 5-10
Expanded Study Area for Burrowing Owl Conservation

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How much will the Plan Cost?

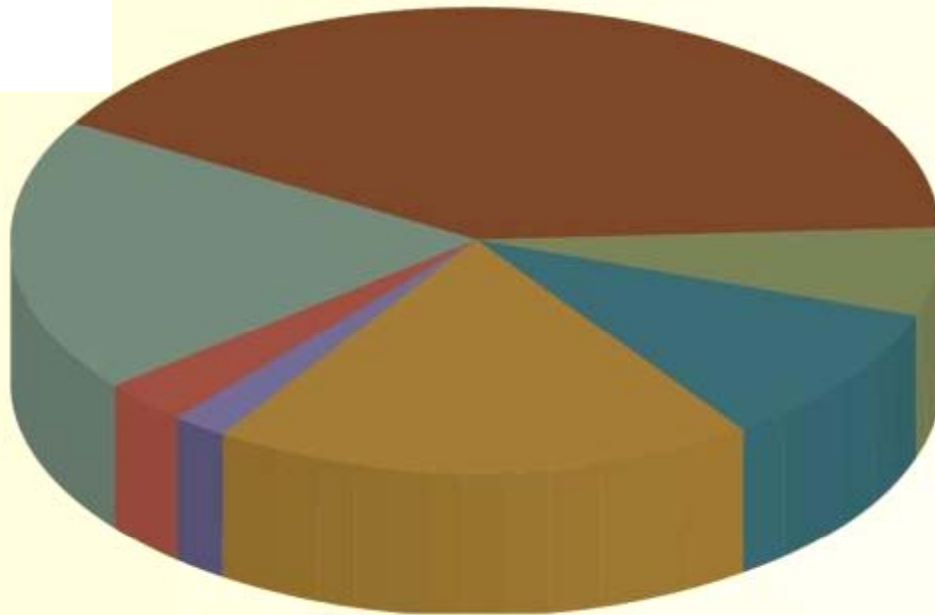
Implementation Cost

- Total Cost for 50 years -- \$938 million (current dollars)
- Annual Cost -- \$18.75 million (current dollars)

Implementation Funding

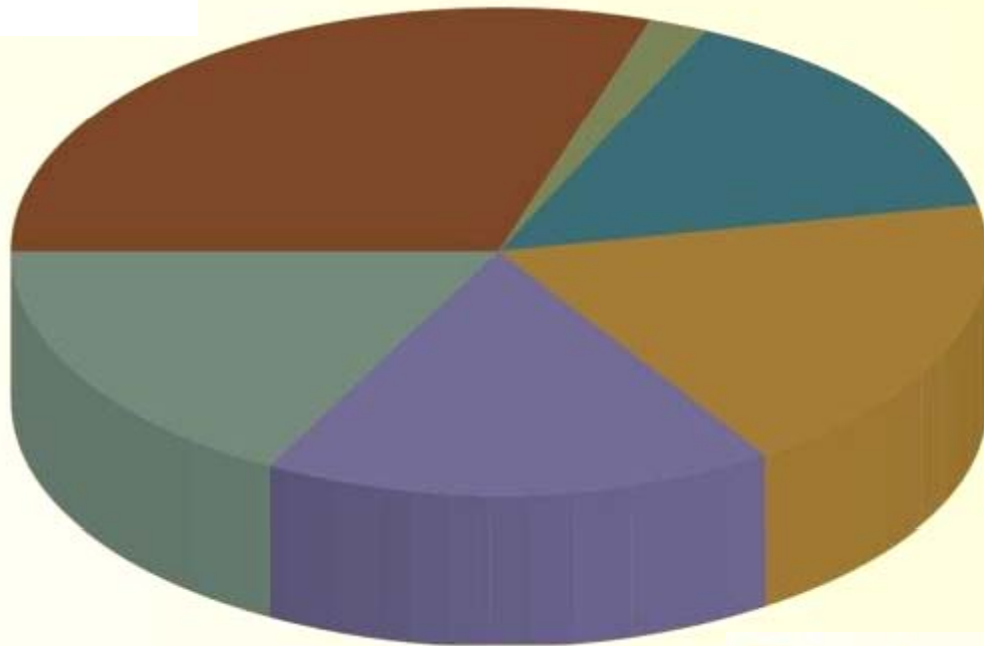
- Public & Private Impact Fees (~58% of costs)
- Land Acquisition by Local Agencies (~17% of costs)
(County Parks and Open Space Authority)
- State and Federal Acquisition Grants (~17% of costs)
- Post-permit Land Management funding (~8% of costs)

Plan Costs



- Land Acquisition 41%
- Program Administration 6%
- Habitat Restoration/Creation 10%
- Reserve Management (monitoring, maintenance, environmental compliance) 19%
- Recreation and Public Access 2%
- Contingency 3%
- Post-Permit Land Management 19%

Plan Funding



- Land Cover Fee 30%
- Nitrogen Deposition Fee 2%
- Special Fees (e.g. Serpentine, Burrowing Owl, Wetland) 15%
- Post-Permit Land Management Funding 19%
- Local Land Acquisition Funding 17%
- State and Federal Funding 17%

**The Plan assumes no impact to local General Fund resources*

Habitat Plan Fees

Fee Zone A

Fee Zone C

Fee Zone B

Legend

Fee Zone*

- Fee Zone A (Ranchlands and Natural Lands)
- Fee Zone B (Mostly Cultivated Agricultural Lands)
- Fee Zone C (Small vacant sites defined as <10 acres surrounded by urban development)
- Fee Zone D (Urban Areas)
- Major Roads
- Study Area
- County Boundary
- Planning Limit of Urban Growth

5 2.5 0 5 10 Miles



Prepared by:



Data Sources:
ICF International (2007), SCVWD (2005),
City of San Jose (2010),
City of Morgan Hill (2006), City of Gilroy (2008)

Impact Fees

Zone Fees

Zone A – Natural Lands – **\$19,720 per acre ***

Zone B – Agricultural Land – **\$13,790 per acre ***

Zone C – Small Vacant Sites - **\$4,930 per acre ***

Zone D – Urban Sites not in Zones A, B or C – **No fee**

** Includes Post-Permit and Plan Preparation Cost Recovery fees*

Special Fees (in addition to Zone Fee)

Vehicle Emission - \$7.29 per vehicle trip (~\$70/house)

Serpentine Fee – \$64,810 per acre

Western Burrowing Owl - \$25,120 per acre

Riparian / Wetland Fees - \$100,000 to \$290,000 per acre

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Impact Area Calculation

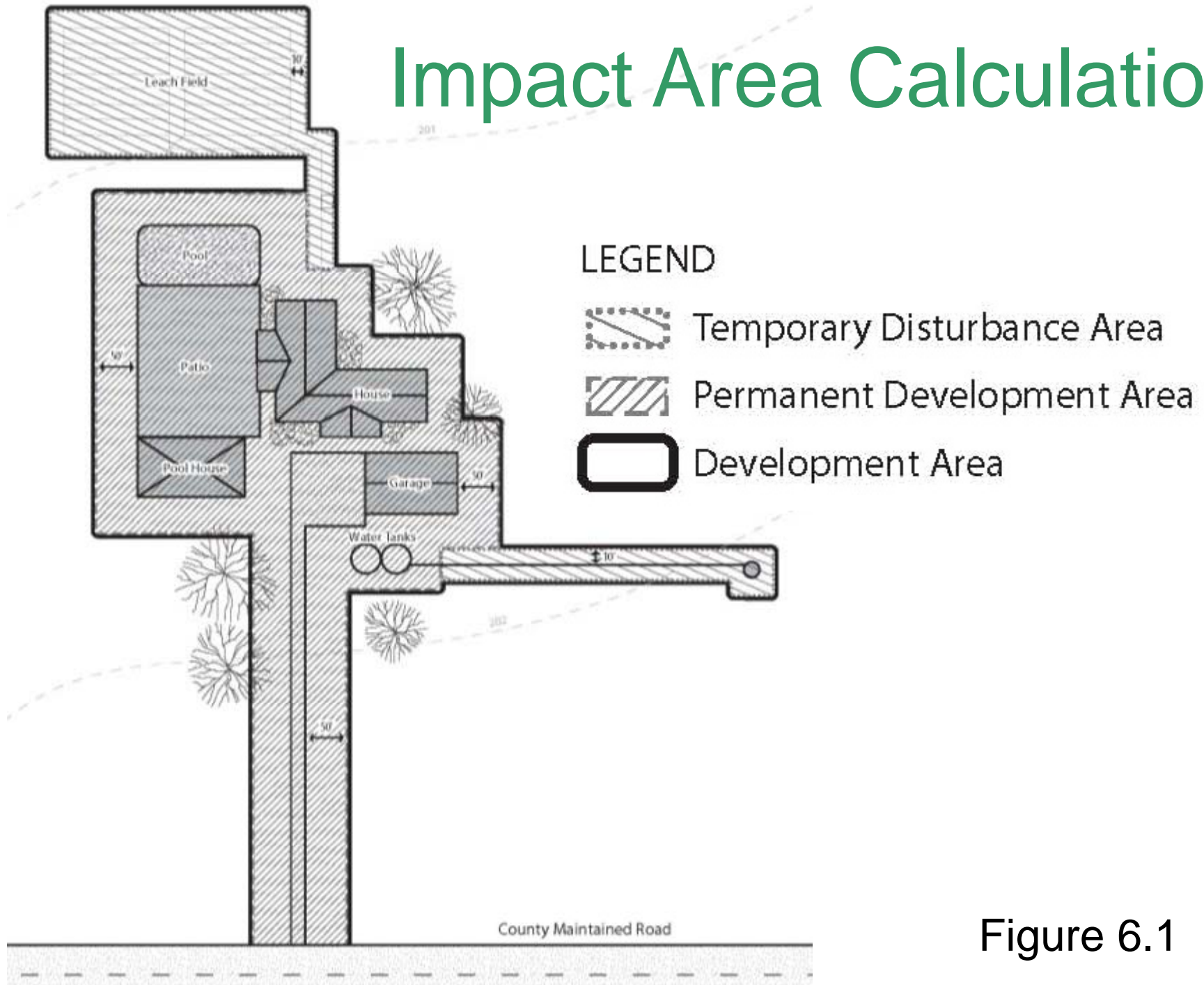


Figure 6.1

Urban Infill Project (Morgan Hill)

Project: Construct 76k sq ft commercial building on 7.72 acres

CEQA/ES: MND. No endangered species surveys required. MH Citywide BOH Mitigation Plan = \$10,360 in fees and preconstruction surveys

HCP: Ag Land Cover. Fee Zone B (\$13,790/acre).

HCP Conditions/Surveys: None

HCP Fees: \$123,983 (Zone B and Nitrogen Fees)

| | Current Process | HCP Process |
|----------------------------|-----------------|-------------|
| Time required ¹ | Minimal | Minimal |
| Costs ² | \$10,360 | \$123,983 |

1 Surveys, permit applications, wildlife agency negotiation, implement mitigation

2 Survey costs, biologist costs, mitigation costs, permit costs, mitigation land costs, CEQA costs, permit fees

Rural Private Single Family Residential

Project: 5,600 sq ft house & garage, disturbs 1.79 acres

CEQA/ES: MND. No surveys required or endangered species permitting.

HCP: 0.79 acres of Coast Live Oak (Fee Zone A) & 1.0 acre of Grain/Row crop (Fee Zone B)

HCP Conditions/Surveys: None

HCP Fees: \$31,313 (Zone A, B, B-Temporary, Nitrogen Fees)

| | Current Process | HCP Process |
|----------------------------|-----------------|----------------------------|
| Time required ¹ | Minimal | Minimal (verify Collinsia) |
| Costs ² | None/Minimal | \$31,313 |

1 Surveys, permit applications, wildlife agency negotiation, implement mitigation

2 Survey costs, biologist costs, mitigation costs, permit costs, mitigation land costs, CEQA costs, permit fees

Urban Out fill Project (Gilroy)

Project: Subdivision (12 residential lots) on 16.05 acres

CEQA/ES: MND. Extensive endangered species surveys, mitigation, permitting required. RLF & CTS agency consultations 1998-2006 required 7 acre mitigation area.

HCP: Grain/Row Crop. Fee Zone B (\$13,790/acre)

HCP Conditions/Surveys: No surveys

HCP Fees: \$222,029 (Zone B & Nitrogen Fees)

| | Current Process | HCP Process |
|----------------------------|-----------------------------------|-------------|
| Time required ¹ | Extensive w/ continued monitoring | Minimal |
| Costs ² | Estimated \$2,750,000 | \$222,029 |

1 Surveys, permit applications, wildlife agency negotiation, implement mitigation

2 Survey costs, biologist costs, mitigation costs, permit costs, mitigation land costs, CEQA costs, permit fees

Gilroy School Access Path

Project: 12 ft wide paved 3,800 ft long path in Uvas Creek Preserve

CEQA/ES: Project specific permit not possible prior to expiration of the project's \$520k construction grant

HCP: Disturbed Grassland Fee Zone B (\$13,790/acre)

HCP Conditions/Surveys: None

HCP Fees: \$19,248 (Zone B & Nitrogen Fees) plus temporary fee

| | Current Process | HCP Process |
|----------------------------|--------------------------------------------------|--------------------|
| Time required ¹ | Project infeasible due to permit processing time | Minimal |
| Costs ² | \$520k grant + survey costs | \$20,451-\$21,654 |

1 Surveys, permit applications, wildlife agency negotiation, implement mitigation

2 Survey costs, biologist costs, mitigation costs, permit costs, mitigation land costs, CEQA costs, permit fees

Who will implement Plan?

- Permit Processing – Local Partners
- Proposed Joint Powers Authority (JPA)
 - Responsible for Conservation Strategy Implementation
 - Governing Board
 - 8 Members – 2 Elected Officials from County & Cities of Gilroy, Morgan Hill and San Jose
 - Set Fees and Annual Budget
 - Implementing Board
 - 11 Members – 1 Elected Official & 1 other each from County, Cities & SCVWD; 1 Elected Official from VTA
 - Oversee all other Implementation Duties

Other Legal Contracts

❖ **Implementing Agreement (IA)**

- Contract between Local Partners & Wildlife Agencies
- Establishes implementation obligations
- Provides Conservation Easement template

❖ **Cooperative Agreement**

- Contract among Local Partners
- Establishes specific terms and conditions for implementation (e.g., partner contracting for implementation services, fee credit process, etc.)



SCV HP Costs

- ◆ **Expanded information needed** in public and private project review process (e.g. biological surveys not required under current rules).
- ◆ **New development impact fees.** Some higher, some lower. Distributed more broadly.
- ◆ **New public obligations to track data** on public and private project compliance with Habitat Plan.
- ◆ **Stream and riparian setbacks** for some properties that currently do not have requirements.
- ◆ **New land management obligations** for open space areas within Reserve System.

Benefits to Public & Private Activities

- ◆ **Clear and certain local permitting process** for public and private sector projects to secure endangered species permits.
- ◆ **Consistent streamlined project review process** and approval conditions.
- ◆ **Time savings** by addressing endangered species issues in current project review process.
- ◆ **Insurance policy** covering future, more restrictive regulations.
- ◆ **Addresses cumulative impacts** on endangered species, reducing project-related risk.

Environmental & Open Space Benefits

- ◆ **Improve survival of endangered species**, many occurring only in Santa Clara County.
- ◆ **Integrated scientifically-based approach** to acquiring and managing open space to preserve and enhance endangered species.
- ◆ **More mitigation** than project-by-project permitting.
- ◆ **Extensive new money for acquisition of non-mitigation open space** by leveraging state, federal and other funding sources.



Environmental & Open Space Benefits

- ◆ **Uniform stream and riparian setback rules.**
- ◆ **Funding for Reserve System land management during 50 year permit and in perpetuity.**
- ◆ **Additional public recreation opportunities.**
- ◆ **Expanded watershed and viewshed protection.**
- ◆ **Climate change addressed with habitat linkages and movement corridors.**



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EIR/EIS Public Review & Comment

Cori Mustin, USFWS

Matthew Franck, CH2M HILL

Overview of Draft EIR/EIS

- ◆ Purpose and Objectives
- ◆ Alternatives
 - No Action
 - Proposed Action
 - Alternative A
 - Others Considered
- ◆ Summary of Environmental Impacts
- ◆ Comment Process
- ◆ Next Steps

Purpose and Objectives of the Action

- ◆ Purpose (Federal)

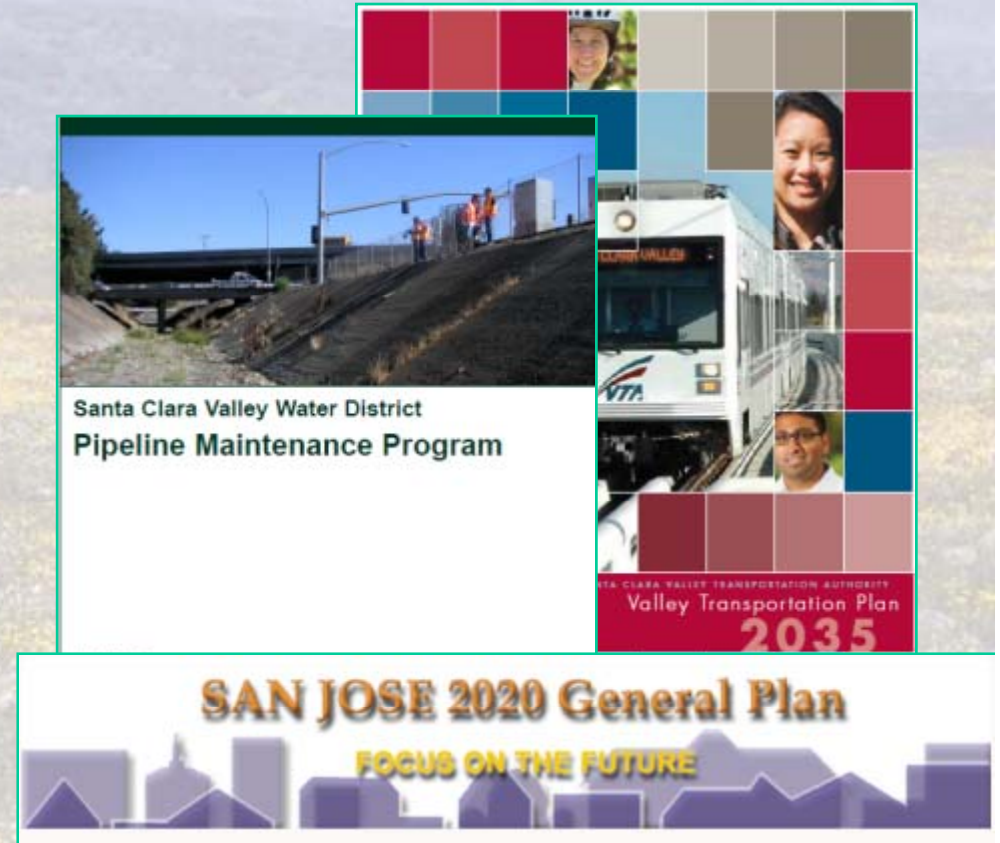
Protect and conserve multiple species and to conserve, enhance, and restore the habitat and ecosystems upon which these species depend to ensure their long-term survival in the Study Area

- ◆ Objectives (Applicants)

- Provide a streamlined permitting process while ensuring improved conservation
- Provide a comprehensive means to coordinate and standardize mitigation and compensation requirements
- Assemble and maintain a reserve system within the Study Area

No Action Alternative

- ◆ Urban development and infrastructure projects consistent with local plans and policies
- ◆ Biological resources considered during review of discretionary actions
 - Listed species focus
 - Case-by-case basis
- ◆ No regional framework for biological resources and natural communities



Proposed Action

- ◆ Continued urban and related infrastructure development consistent with Habitat Plan's rules and regulations
- ◆ Conservation strategies for 21 species are applied for 50 years
- ◆ Local Partner assurances and regulatory certainty

Draft
Santa Clara Valley Habitat Plan

Santa Clara County, California

County of Santa Clara
City of San José
City of Morgan Hill
City of Gilroy
Santa Clara Valley Water District
Santa Clara Valley Transportation Authority

December 2010

Alternative A: Reduced Term

- ◆ 30-year permit term
- ◆ Same level of development as No Action and Proposed Action
 - Consistent with Proposed Action through Year 30
 - Consistent with No Action from Years 30 – 50
- ◆ Smaller reserve system
 - Approximately 46,400 acres

Other Alternatives

These alternatives were considered but not carried forward for detailed analysis

- Acquisition Focus
- Enhancement Focus
- Reduced Take
- Incidental Take Coverage for Fish Species
- Henry W. Coe State Park
- San Benito County
- Rural Clustering

Resources Considered

All environmental resources were considered. Detailed analysis was conducted for...

- ◆ Biological Resources
- ◆ Land Use
- ◆ Agriculture
- ◆ Public Services
- ◆ Recreation
- ◆ Hydrology & Water Quality
- ◆ Socioeconomics and Environmental Justice
- ◆ Cultural Resources
- ◆ Transportation
- ◆ Noise
- ◆ Air Quality
- ◆ Mineral Resources
- ◆ Wildfires

Summary of Biological Resources Impacts

- ◆ Adverse effects to biological resources would be similar to or less than under the No Action Alternative
- ◆ Mitigation benefits would be superior to No Action
- ◆ Benefits to all 21 covered species
- ◆ Benefits to additional species not covered
- ◆ Benefits associated with:
 - Limits on Incidental Take (e.g., Bay checkerspot butterfly)
 - Conditions on Covered Activities
 - Reserve System (58,000 acres)
 - Enhancement, Restoration, and Creation
 - Coordinated Management and Monitoring
 - ...and various other aspects of the comprehensive strategy

Summary of Other Impacts

Potentially significant impacts to other resources, associated with the Reserve System, which can be mitigated to less than significant

- Agricultural Lands
 - Ensure protection of prime farmland
- Hazardous Materials
 - Ensure that sites are investigated prior to acquisition
- Cultural Resources
 - Investigate impacts prior to Reserve System activities
- Traffic and Noise
 - Protect local residents during intensive restoration work

Public Comment Open

- ◆ 120-day review and comment period

Ends on April 18, 2011

- ◆ Provide additional data you think is relevant to the decision at hand
 - HCP and environmental impact assessment
 - Help the agencies to make informed decisions
- ◆ Verbal comments here tonight
 - Please clearly state name and city of residence
- ◆ Written comments via form (send or email)

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Contacts & Plan Questions

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Plan documents available at www.scv-habitatplan.org