

# 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

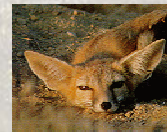
## Presentation Outline

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

*Santa Clara Valley Habitat Conservation Plan/Natural Community Conservation Plan*

# 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



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# 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



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## What the Habitat Plan Will Do?

- **Provide comprehensive open space, conservation and 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.

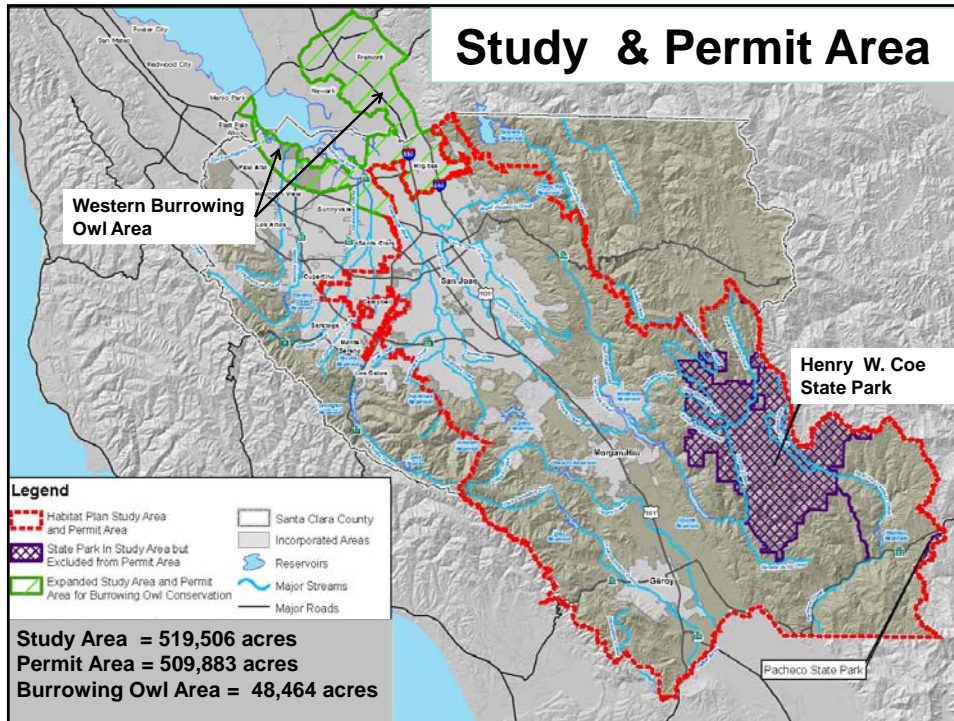
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## Schedule

- 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
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Permits
- Early 2012** Local Partners adopt local ordinances

**Summer 2012 -- Start Plan Implementation**

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## 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



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# 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

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## 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



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## 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

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## 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'

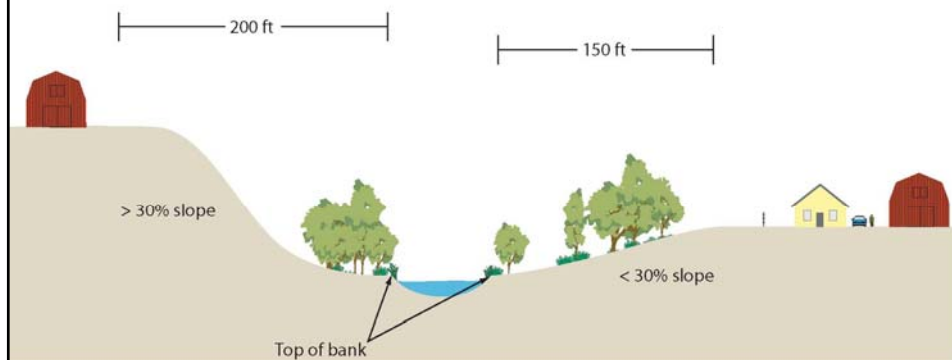
**Fish Bearing Streams** = Main Creeks in Study Area (e.g. Uvas, Guadalupe, Coyote, Llagas, and Pacheco)

\*USA = Urban Service Area

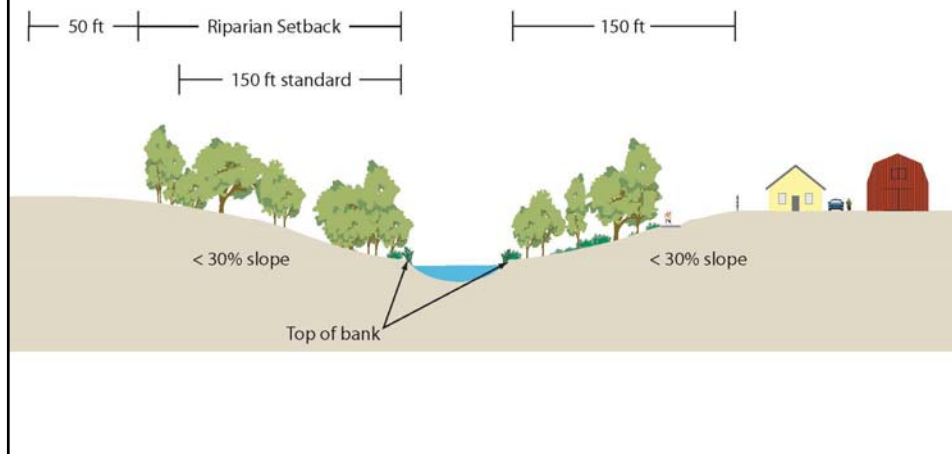
\*\*If riparian vegetation exists, setback is 35-50 ft beyond edge of riparian area

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## 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



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# Conservation Strategy Highlights

- ◆ **Restoration**

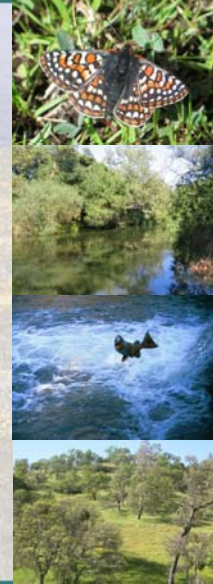
- Up to 566 acres of degraded habitats
  - 12.6 miles of degraded streams

- ◆ **Focused Conservation Actions**

- Covered species
  - Natural communities

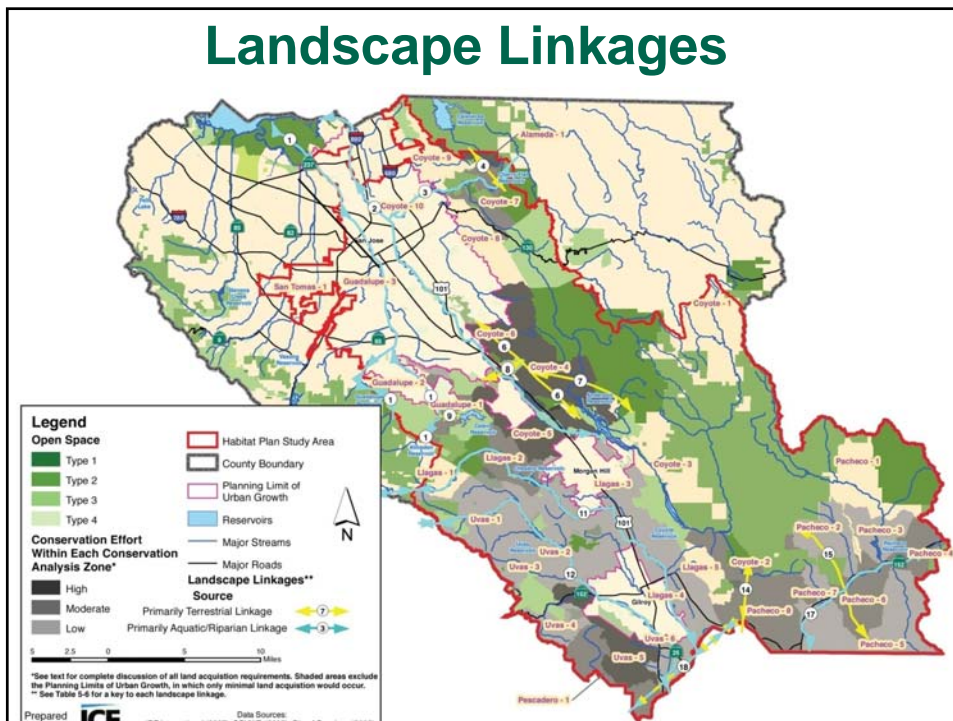
- ◆ **Long-term Management & Monitoring**

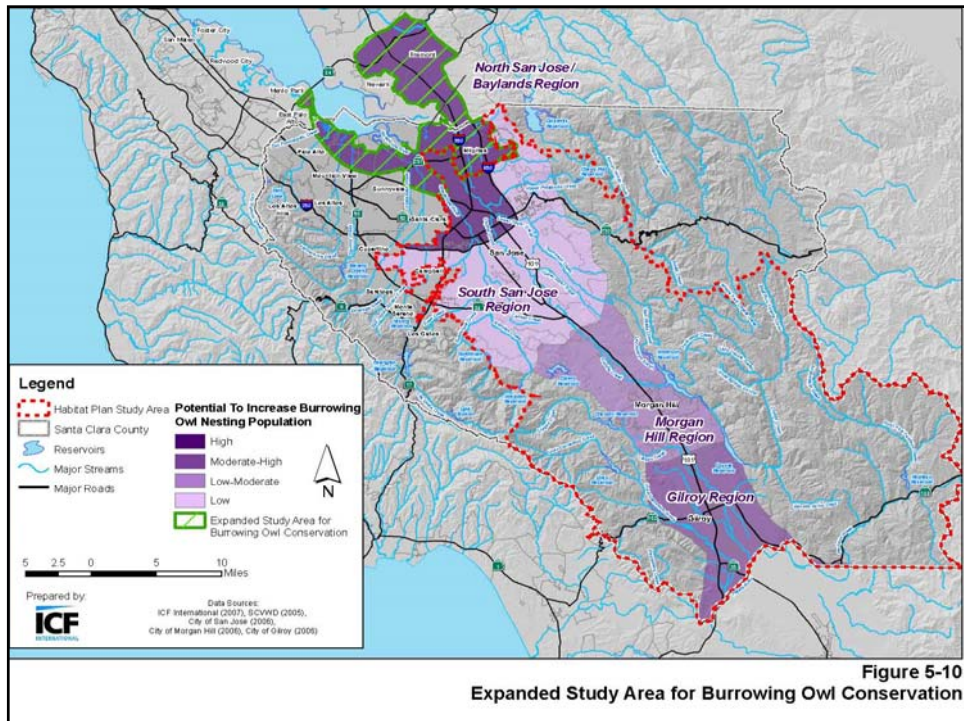
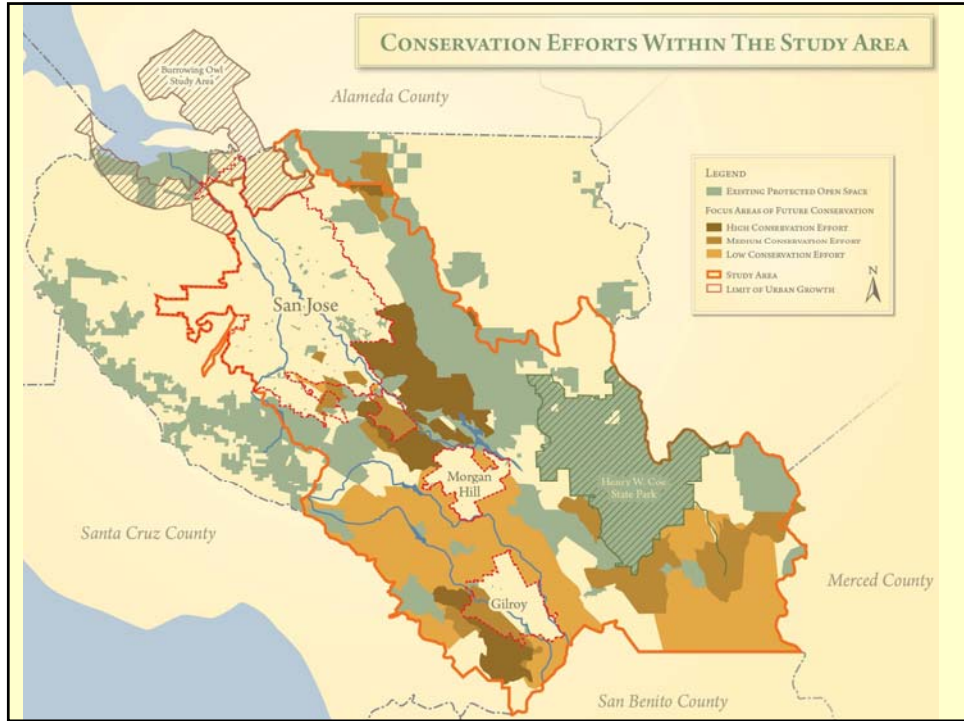
- ◆ **Post-Permit Land Management**



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# Landscape Linkages





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## How much will the Plan Cost?

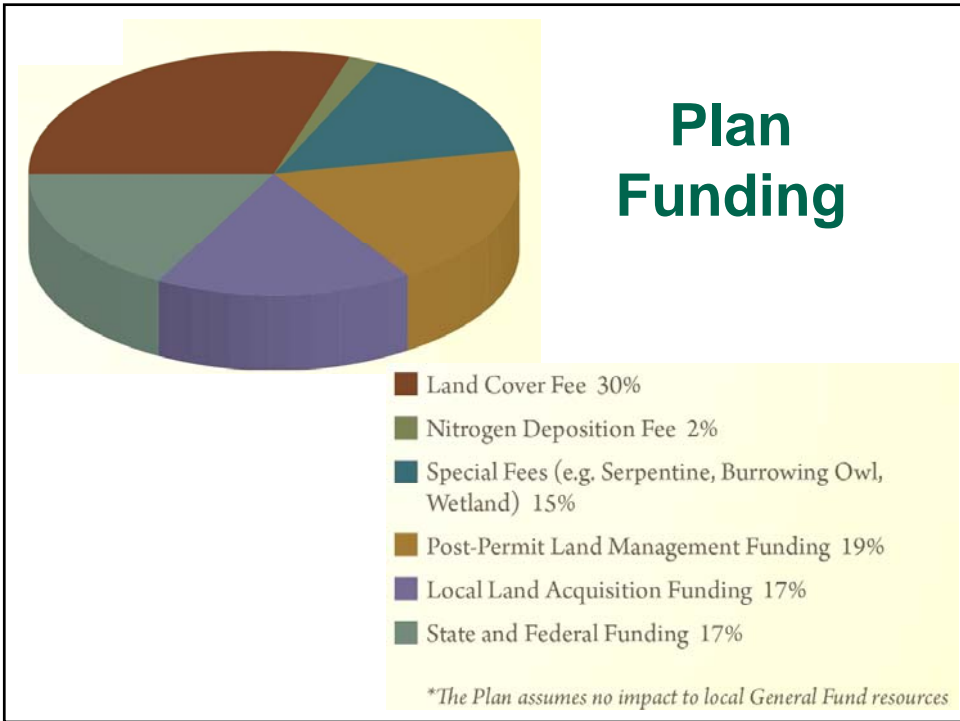
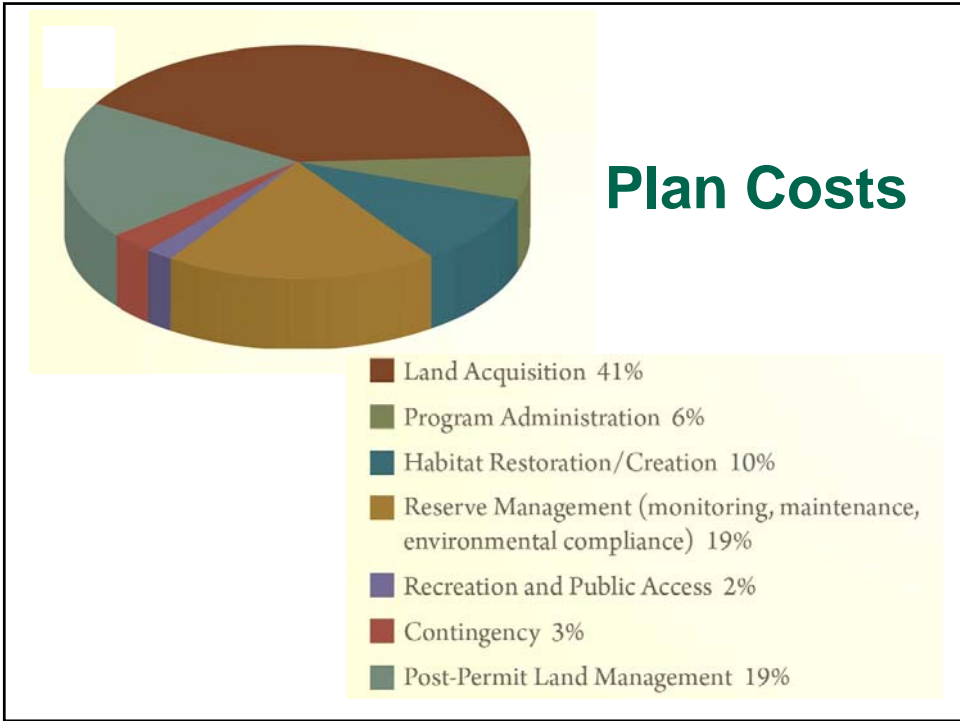
### Implementation Cost

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

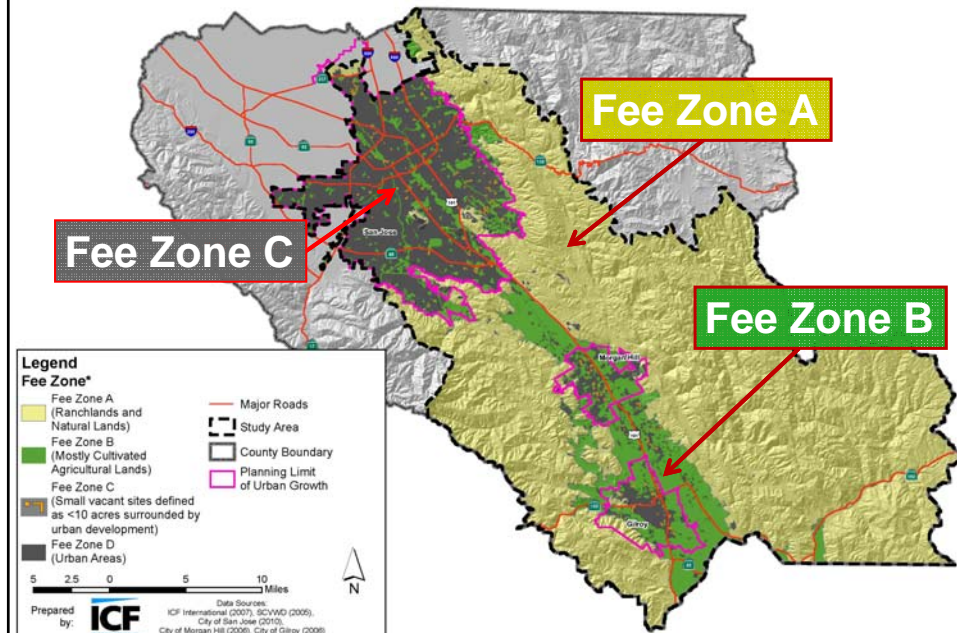
### Implementation Funding

- 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)

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## Habitat Plan Fees



## 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

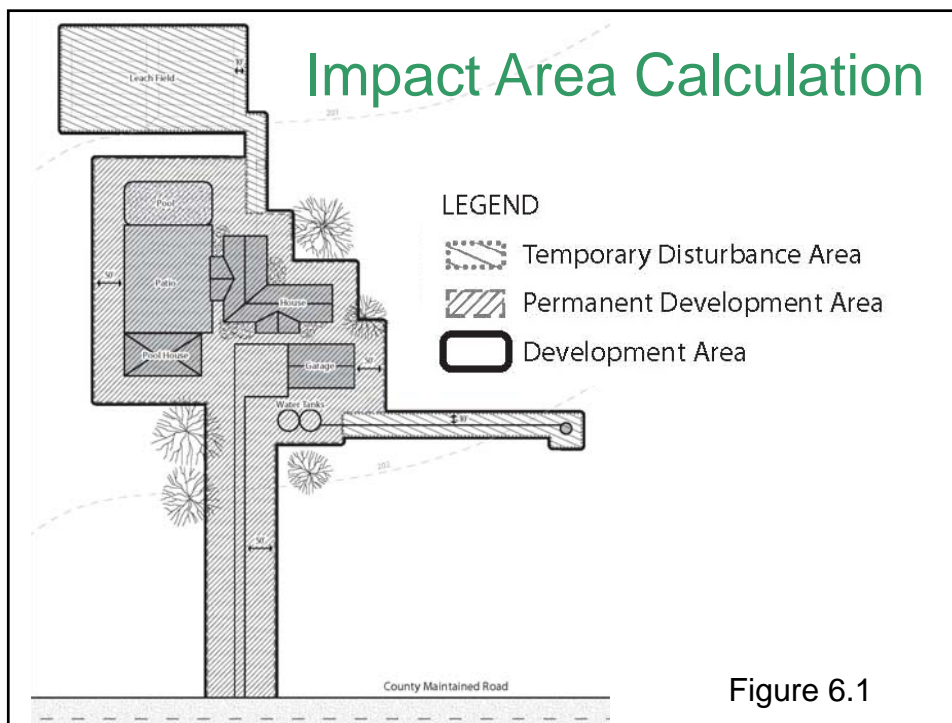
Western Burrowing Owl - \$25,120 per acre

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

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## 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 Surveys/Conditions:** None

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

	Current Process	HCP Process
Time required <sup>1</sup>	Minimal	Minimal
Costs <sup>2</sup>	\$10,360	\$123,983

<sup>1</sup> Surveys, permit applications, wildlife agency negotiation, implement mitigation

<sup>2</sup> Survey costs, biologist costs, mitigation costs, permit costs, mitigation land costs, CEQA costs, permit fees

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## 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 <sup>1</sup>	Minimal	Minimal (verify Collinsia)
Costs <sup>2</sup>	None/Minimal	\$31,313

<sup>1</sup> Surveys, permit applications, wildlife agency negotiation, implement mitigation

<sup>2</sup> Survey costs, biologist costs, mitigation costs, permit costs, mitigation land costs, CEQA costs, permit fees

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## 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 <sup>1</sup>	Extensive w/ continued monitoring	Minimal
Costs <sup>2</sup>	Estimated \$2,750,000	\$222,029

<sup>1</sup> Surveys, permit applications, wildlife agency negotiation, implement mitigation

<sup>2</sup> Survey costs, biologist costs, mitigation costs, permit costs, mitigation land costs, CEQA costs, permit fees

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## 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 <sup>1</sup>	Project infeasible due to permit processing time	Minimal
Costs <sup>2</sup>	\$520k grant + survey costs	\$20,451-\$21,654

<sup>1</sup> Surveys, permit applications, wildlife agency negotiation, implement mitigation

<sup>2</sup> Survey costs, biologist costs, mitigation costs, permit costs, mitigation land costs, CEQA costs, permit fees

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## 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

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## 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.)



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## 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.

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## 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.

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## 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**

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## 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

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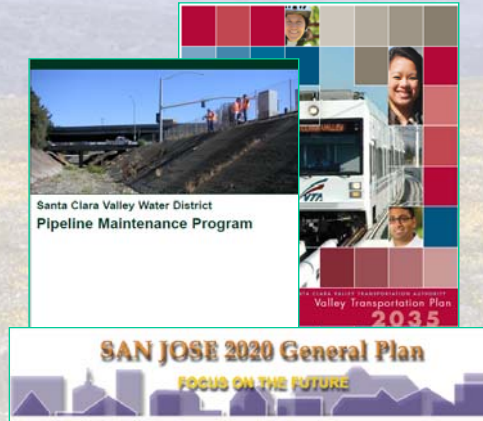
## Purpose and Objectives of the Action

- ◆ 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

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## No Action Alternative

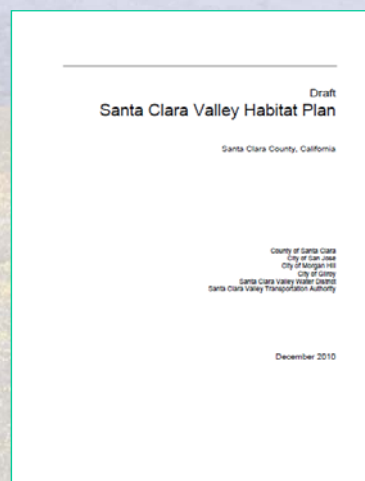
- ◆ Urban development and infrastructure projects consistent with local plans and policies
- ◆ Biological resources considered during review of discretionary actions
  - Listed species focus
  - Case-by-case basis
- ◆ No regional framework for biological resources and natural communities



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## 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



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## 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

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## 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

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## 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

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## 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

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## 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

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## 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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