

SANTA CLARA VALLEY  
**HABITAT CONSERVATION PLAN/NATURAL COMMUNITY CONSERVATION PLAN**  
*Stakeholder Group Meeting | February 24, 2009 | Morgan Hill Community & Cultural Center*

**IN ATTENDANCE:**

Jack Bohan (General Public)  
Kevin Bryant (California Native Plant Society)  
Joanna Callenbach (YCS Investments)  
David Collier (Sierra Club)  
Justin Fields (Santa Clara County Cattlemen's Association)  
Jan Hintermeister (Santa Clara County Parks and Recreation Commission)  
Virginia Holtz (League of Women Voters)  
Jeff Martin (South County Landowner)  
Peter Mirassou (Agriculture/Landowner)  
Bob Power (Santa Clara Audubon Society)  
Kenn Reiller (Pajaro Watershed Council)  
Suncil Thomas (The Nature Conservancy)

Keith Anderson, Craige Edgerton, and Carolyn Tognetti were excused from attending today's meeting.

**I. WELCOME AND INTRODUCTIONS**

Joan Chaplick welcomed the group, provided a brief overview of the agenda, and noted that hard copies of the February 19 Liaison Group packet were available for interested stakeholders.

Also, Lloyd Wagstaff has left TNC and will no longer be joining the group. Suncil Thomas, a senior TNC staff member involved of many western HCPs, will be taking Lloyd's place as the TNC representative.

Ken Schreiber noted that Virginia Holtz and Sequoia Hall will be playing another role in the HCP process as the Santa Clara County Open Space Authority's representatives to the Liaison Group.. The Open Space Authority is signing on as a partner agency to the plan.

**II. UPDATE ON PLAN SCHEDULE AND BUDGET**

Following introductions, Ken provided a brief update on the planning process timeline. The Santa Clara Valley HCP process began in 2004, and Jones & Stokes came into the process in the beginning of 2005. These plans are very time-consuming operations, and we are still successfully working towards plan completion at a faster pace than many other HCPs. The first administrative draft came out last August and review of this draft continues. At this point, review of the first administrative draft will likely continue into April, with the second administrative draft released in May 2009.

We received over 5,500 comments prior to release of the first administrative draft and Jones & Stokes is processing over 3,800 comments on the draft itself. Many of these comments came from people who were not previously involved in the process. An estimated 10% of comments are from members of the stakeholder group, and 40-50% were submitted by the Wildlife Agencies, mostly from FWS. Jones & Stokes received over 400 comments on Chapter 5 from the Fish and Wildlife Service (FWS).

Ken noted that the group has been wrestling with issues surrounding the Pajaro River Watershed and steelhead – particularly Central California Coast steelhead, the species that uses the Pajaro River.

This is a difficult set of issues because this particular species is under serious threat. A challenge is that there relatively few covered activities in the Pajaro Watershed and the Wildlife Agencies want extensive species restoration efforts. For this reason, there is an interest in aquatic conservation strategies. One suggestion has been to release the second administrative draft without the aquatic conservation strategy.

We are still aiming for final plan adoption in the last part of 2010, though at this point our timeline is fairly tight. The next Liaison Group meeting takes place April 16<sup>th</sup>, 2009, and will be an important part of resolving these issues.

Jerry Smith provided background related to the issues at play with the conservation strategy for steelhead. Jerry has been on scientific teams for recovery plans for three steelhead populations. When a species is listed, this essentially creates a situation in which stakeholders and Wildlife Agencies find themselves in a grey area between species recovery and species protection. The NCCP requires progress towards recovery while the HCP requires species protection. To expect recovery as the outcome of a HCP is fairly optimistic given that very few species ever recover. Recovery criteria for steelhead define different geographic strata, and species within each stratum must experience recovery in order for the species to be de-listed. San Francisco Bay species will remain listed as long as there is an Endangered Species Act. In terms of the Central Coast, Big Sur species are doing fairly well but Pajaro and Salinas are not doing very well, so delisting Central Coast species will likely not happen. As a practical matter, these species will remain listed forever.

David Zippin added that recovery criteria are unreasonably too high, and given the expanding population and the expansion of land uses that are removing habitat rather than creating habitat, it is very difficult to meet these criteria. HCPs don't always contribute to recovery because they minimize and mitigate to the maximum extent practical. Even NCCPs are only required to contribute to recovery, unless circumstances are considered extenuating, which is very rare. Currently, we are facing an issue with the National Marine Fisheries Service (NMFS) in that they have the expectation that this plan should recover steelhead in Santa Clara County. This is not reasonable nor is it feasible, but this is their expectation.

Ken noted that in the last 12-18 months, NMFS staff is completely focused on steelhead recovery. NMFS does very few HCPs in California, and so it may very well be that their thinking related to the recovery plans has influenced their approach to the HCP.

Pat Showalter expressed disagreement with the earlier statement about NMFS' expectations. She doesn't think that their expectation is that we are going to recover the species, but NMFS does believe that the majority of recovery in the County is going to occur under this plan.

She also stated that the HCP focuses on future actions, rather than past actions. David noted that this is a big sticking point, because NMFS would like to see this plan correct the mistakes of the past.

David Collier asked if it is possible in the document to put actions on a sliding scale based on what we think we can reasonably fund. This is not to say that we do not want to do other things, but that they are not currently feasible in the county. That way, when it comes to future opportunity and future funding, the plan would serve as a blueprint.

David noted that this section is part of the plan. However, the challenge is that we are only going to get credit for what we can commit to. The section called "Conservation in the Study Area beyond Habitat Plan Requirements" points to other programs in the future and will be expanded as the plan continues to develop. This does exist in the context of land acquisition but this can and very well may change depending on the final commitments made in the plan.

Ken said that from a budget standpoint, we are 85% into plan development. Stopping the process or slowing it down will actually cost more than it will to push forward and complete the plan. The expectation is that we keep to our schedule and budget, which will have implications for all local partners that we need to remain sensitive to. Provided we keep plan development moving forward at the current pace, we should be OK.

Peter Mirassou asked if County Parks land acquisitions are built into the plan implementation budget. Santa Clara County is pursuing a number of acquisitions that will count toward the Reserve System. This would be applied eventually toward the budget of plan implementation. Also, we have applied for Section 6 money, or federal planning grants, and we have \$185,000 that we may lose if we stop the process or slow it down. This is because the time period will expire and Agencies may not be willing to extend this, particularly if we are not making a reasonable, good faith effort to continue according to schedule.

### **III. REVIEW STATUS OF FIRST ADMINISTRATIVE DRAFT --- LIAISON GROUP REVIEW**

#### **A) Wildlife Agency Significant Issues Overview**

Ken noted the need to pass over review of the significant issues table provided and instead discuss the most controversial issues where progress is being made.

#### **B) Pajaro Watershed Aquatic Conservation Strategy**

We have already talked quite a bit about this issue, it is complicated, and there are more meetings scheduled with the Wildlife Agencies. Kenn Reiller noted that redundancies exist in the Pajaro Watershed Conservation Strategy, and asked the group if they should consider formalizing interest in participating in projects/events outside the county or study area that work towards the plan vision. On March 18, the Army Corp of Engineers is going to come to Watsonville to talk about the \$400M flood projection project, which includes Sal Si Puedes Creek. This project has committed state funding, and with this project and others like it opportunities arise to participate in plan implementation in Santa Cruz County. Kenn was recently appointed to a committee that will oversee this Corps project. Chapter 5 discusses the plan's vision for the future and notes events such as these as opportunities.

Ken responded that at the stage we are in, we are focused on the study area. About a year and a half ago, effort was made to look at habitat land just beyond county/study area boundaries. The take-away from that experience was that - as far as this process goes - we need to stay in the study area in terms of analysis and conservation actions. At this point, it would be very difficult for the HCP to become actively involved in this effort. In the future, when the Implementing Entity (IE) is in existence, the focus of discussion could possibly change because, as well all know, conservation doesn't stop at the county line.

Kenn asked if Chapter 5 includes placeholder language noting this possibility. David Z. confirmed that there is. In addition one of the roles of the IE that is identified in Chapter 8 is coordination with other land and water management agencies outside of study area.

Ken also noted that there is concern among local staff that the habitat plan is tied into requirements outside of county. If for some reason there is a commitment to do something in Santa Clara County and these efforts are not successful, then there is concern that the County may become obligated to do restoration or some other conservation work outside of the county.

Jerry noted that Sal Si Puedes is a migration corridor but does not provide rearing habitat, and so there is not redundancy created with respect to spawning.

David Collier voiced concern over the lack of analysis or an overly narrow analysis that doesn't spill over into other areas. Ken noted that he may have misspoken. While there is concern related to the obligation to implement conservation action in other areas, we are involved in analysis outside the study area and recognize the importance of broader scale analysis that crosses county lines.

## C) Stream and Riparian Setbacks

Ken provided a brief review of the major issues at play with respect to stream and riparian setbacks. We have struggled with stream and riparian setbacks for quite a while – there have been at least 10 meetings with local stakeholders, as well as the Wildlife Agencies. The Liaison Group packet includes proposals to the Wildlife Agencies. The sticking points occur in a few places:

- 1) Stream setbacks will apply to streams in incorporated and unincorporated areas. The history has been that stream setbacks are controversial issues.
- 2) Defining what constitutes a stream: what is a stream and how far up the stream corridor does it go?
- 3) Many Wildlife Agency concerns relate to siltation and preventing silt from moving down the streams. However, historically, the primary function of these streams is moving silt down into the valley. If the target is to stop siltation, are you setting yourself up for failure from the beginning?

Ken referred to two Jones & Stokes figures illustrating stream setback conditions. The HCP addresses streams in a couple of situations: streams with banks of less than 30% slope and those with slopes greater than 30%. Another item of discussion is where riparian vegetation exists and how far back riparian vegetation extends. In urban areas, most decisions have already been made so there are few opportunities to impose extensive standards here. In areas that have not yet been developed, we are looking at areas of less than 30% slope having a setback extending 150 feet from the bank at bank full condition and, in the case of streams with banks with slopes greater than 30%, extending 200 feet from bank full condition. In cases where the riparian vegetation extends beyond these setbacks, the setbacks will be widened in order to create a vegetation buffer.

There is a desire among many partners to put a variance process into place, given that setbacks may constitute a take for many riparian parcels of limited width. There is a need to balance the width of the setback, the width of the parcel to which it applies, and how you design exceptions to avoid take.

Text is still being worked on and is in draft form. The County is talking about a broader review process involving public meetings and the planning commission, etc. because we know how sensitive this issue is in certain areas of the county.

Kenn briefly discussed inverse condemnation issues that he has run into in his work in earlier years. Since streams fall into the category of geologic hazards, dedication requirements should be based on what a stable channel would look like at bank full, first terrace, and 100-year flood conditions.

Ken noted the difficulty in finding the balance here. There are certain site-specific conditions that have a public safety requirement, and local jurisdictions have flexibility in imposing standards. Another issue here is that 50-70% of streamside property in the unincorporated areas is undevelopable with a very wide stream setback. The question then becomes how to create a variance without requiring that all property owners be required to go through an over-burdensome regulatory process.

The current attempt is to set a minimum that most can work from and that can be used as a basis for site-specific analysis. According to Jerry, a good reason for establishing setbacks is to filter sediment, runoff from impervious surfaces, and pollution resulting from urbanization. At the same time, if runoff and pollution is being run through a culvert directly into a stream, then a required setback may not accomplish your goals. In this situation, the requirement is more about physical space and is no longer about the space's intended function. There is no language here addressing that reality.

Pat noted that Jerry is describing the science of what we want to do. A few years ago, based on this science and the knowledge that 50-foot setbacks were not effective, the Water District attempted to create a greater setback requirement that was met with quite a bit of resistance from cities and counties. The Water District created a model ordinance and streamside guidelines, and encouraged their adoption and use at the local level. However, cities decided that they wanted their planners to make these decisions. Joan asked Pat to follow up on this issue and to let the group know which communities adopted the model ordinance. (Note: Pat sent materials after the meeting in responses to these questions. Please see end of document for Pat's response and the related, attached document titled "Riparian Corridor Protection Measures 022609".)

There is the expectation on the part of the Wildlife Agencies that this kind of requirement will exist. Setback protections are an essential part of the aquatic conservation strategy and strategies for covered species such as least bell's vireo, which are completely dependent on riparian vegetation. The reason this proposal has gone further is that it has support from many agencies and many side benefits in terms of recreation and aesthetics.

One stakeholder asked if there are ongoing public meetings to address this subject. According to Ken there will be, but we want to highlight this as part of the public HCP review process because of the importance of this issue.

Joanna Callenbach shared with the group that she attended and observed the most recent Liaison meeting. Agencies are expected to make the determination in terms of what is a covered stream. In terms of implementation, how will definitions be created? David showed a new figure that will be part of the second administrative draft. These are defined in Condition 11 and are part of Liaison Group packet.

Jerry noted that there is a fish map that is part of the HCP that maps out many of the fish-related stream categories. This base map will cover most situations but there may be questions about where specifically these boundaries change. Figure 3-11, part of first admin draft, provides description of how streams are characterized. David agreed with Jerry in that the trick is where categories change. These transitions will have to be mapped at parcel level during implementation.

Streams with banks of greater than 30% slope with proposed 200-foot setbacks are in areas where these setbacks will have little impact on development. The 150-foot setback would apply to other places, including Gilroy and along Uvas Creek.

In response to comment from Joanna, David Z. noted that yellow-legged frogs are totally coincident with fish and so yellow-legged habitat should be defined as fish-bearing creek. Red-legged frogs could be in a lot of places, including streams and off-stream ponds. Therefore red-legged frog protection and recovery efforts will focus on restoration of ponds and off-stream wetlands. In other words, there is a package approach for that species, which is why we focus stream setbacks on fish - this is really the only place they exist.

Kenn noted that since this is a hybrid HCP (map- and process-based plan), it would be interesting to look at streamside areas in geologic hazard zones that are not developable in first place, and use a process of analysis to justify the imposed environmental setback. He also argued that removing siltation is not an HCP task, but rather the responsibility of the regional water quality control board (RWQCB). David stated that all three Wildlife Agencies would argue that sedimentation is part of the HCP and under their jurisdiction. Also, there are several categories of geologic hazard, and simpler is better in terms of choosing battles to fight here.

Jack Bohan asked, how does this operate under the HCP? Ken noted that fees are used primarily to buy land reserves, which would have streams in them, but the thinking is not to purchase riparian setback areas. David Z. added that this would apply to any covered activity, meaning that agencies and developers coming into local cities would need to comply with the setback condition.

Jeff Martin asked if the adoption of setbacks was more of a regulatory action that imposes additional fees than a permitting issue. David Z. said that we need to preserve the basic functions of streams where they exist because they are irreplaceable resources. New development in the future that will have benefit of this plan needs to preserve the basic function of stream corridors – hence setbacks. Cities will need to adopt ordinances to set fees, and these same ordinances will establish setback requirements. This is an essential component of the HCP, and not an extra.

Jerry also mentioned that the issue of streamside setbacks is different from establishing the Reserve System because of the implications of water management upstream and throughout the system.

Bob Power asked, is the biggest issue that this is new and will require a lot of change from counties and municipalities? Is this a radical departure from what is currently in place? Ken said that he is not sure of the answer. The City of San Jose is the only municipality in the jurisdiction that has existing setback ordinances. The current working condition is part of the Liaison packet – please review and provide comments and we can work into the next draft. According to David Z, they have already received comments from FWS, so changes responding to these comments will be part of the next iteration.

David C. noted there need to be minimum requirements in the plan, plus process requirements. When it comes time for plan adoption, we can help to frame the argument by pointing out the real impact of these setbacks. It could be that this is relatively small given the overlapping restrictions (pre-existing regulations) – this reality could ease the path to setback adoption.

Jeff noted that Jerry’s argument about the space created versus the function provided by a setback and the role of culverts is an interesting one. If what you’re after is reducing contamination then on-site stormwater management is the way to think of it. But this is an aquatic concern. From the riparian standpoint (i.e. least bell’s vireo), this is something different.

Jeff stated that setbacks feel like an earmark. In addition to funds related to mitigation fees, how many additional costs are there?

Ken noted the need to look more closely at plan conditions – this is where site-specific property conditions occur in the document. Jeff then asked, does this mean that if you drill a well, you need to be covered under the plan? Ken said not necessarily - regulation would have to come through the County and Water District.

Should there be a consideration given to locating a well as far away as reasonably possible from a stream, or in a location that minimizes drawdown to streams? Is there a way to regulate well locations to minimize drawdown? This issue came up in process a few years ago, where wells were required to be located a minimum of 300 feet away from streams.

Jeff continued by asking, does this plan go beyond collecting a fee for habitat mitigation or does it in fact intend to go about mitigation itself by setting up setbacks and other conditions? David responded that the purpose of regulatory standards is to minimize and mitigate. Fees are intended for mitigation and we still need to minimize impacts on site. With this plan, we have de-emphasized the minimize standard and have focused on mitigation because we can make the most progress and be most economically efficient using this approach. However, the minimize standard can’t be ignored, and stream setbacks are an important part of this.

Jeff asked, at the end of the day is there a simple way to determine which plan conditions effect his property rights? David Z. noted that Chapter 6 is most related to survey requirements, but will only apply to a small

subset of projects. County staff members in particular have been very good about coming back and asking the group to balance the need to minimize impact and mitigate.

Pat also noted that one important benefit of the plan is that conditions will be uniform over the entire study area, and that this uniformity will be advantageous in anticipating requirements to landowners.

Jeff stated that it is only fair that there is a place where a property owner can come and find out what conditions apply to them. David Z. responded that they are creating a template form so county planners can help property owners. This is also why the conditions are in one place – they are quite detailed, but they can all be found in one place in the plan.

For example, stream setback conditions will be in Chapter 6 as part of the conditions on covered activities.

One stakeholder asked, will there be a map that will demonstrate transitions from stream types? Ken noted that Category One streams throughout the study area are mapped but are very difficult to read at this scale. The County will maintain something like this (i.e. a map of transitions from Category One and Category Two stream), but this map won't be in plan. One stakeholder noted the potential benefit of a web-based database accessible to anyone.

Jack stated that this plan has become more and more map-based. According to David, there has been no choice here – streams are where they are and conditions on particular parcels are relevant to stream and riparian protection.

Joanna agreed that maps would be much easier to view online. Access to these maps is very important for people with land in the study area to understand what's proposed. Ken told the group that the County has begun to prepare for database needs related to implementation and have contracted to develop a framework for how a system can be put in place. He hasn't seen this in other jurisdictions and is excited to see that the County is being so proactive.

#### **D) Western Burrowing Owl**

Ken summarized the research that has been done on the western burrowing owl in the study area. An authorized sub-consultant surveyed breeding grounds last spring. This survey is critical in determining how many breeding pairs exist and how successful they are in maintaining a population. The result of the survey is not very positive, and this is not the only area in which population is dropping. Two of the three sites in the county with owls – San Jose Airport and the San Jose/Santa Clara Water Quality Treatment Plant -- are not covered activities. The third site, the VTA Cerone Bus Yard, is a covered activity. The multi-year, multi-site process to develop a long-term plan for the Water Quality site is not part of the Habitat Plan and, given the range of participants, isn't suitable for linking to the habitat Plan for the near future. However, we need to treat owls as if they are listed because within the next five years or so there is a reasonably good chance that they will become listed.

Everyone has interest in the owls and has a stake in getting the owl into the habitat plan. The problem is that the owl doesn't like to be handled, and left to its own devices its prospects for recovery are not good. The result is a conservation strategy that throws everything into owl conservation that we can to not only mitigate impacts, but to gain coverage under the state NCCP. We have received minimal comments from FWS and we are awaiting comments from Fish and Game (the two key agencies in the state with respect to owls). We are waiting for FG to organize their information related to this very difficult challenge.

Jan Hintermeister explained that this whole area once had the densest population of western burrowing owls in the state and perhaps the world. This was an area that was self-selected by the owls, and the landowners and other concerned agencies and stakeholders have had many opportunities to help them. In the plan, we need to separate the experimental conservation strategies with low probabilities of success from those that have proven, on-the-ground success rates. This is particularly the case with respect to owl re-location – there is a very low probability of success unless you're moving them a very short distance. We need to use this information to drive mitigation ratios and to determine the probability of success of different strategies.

Jan also noted that he would like to identify one place in the state that has vegetation where owls exist. Have there been any areas without owls, where vegetation has been managed and where owls have been brought in, that has been successful? This is data that we need.

Jan pointed out that there seem to be discrepancies between numbers in Table 5-26 related to expected net changes.

One stakeholder noted the burrowing owl symposium at Mission College. Based on a report that Phil Higgins wrote years ago, a low and tall grass mixture may have habitat potential. Ken stated that Jack Barclay is recognized for his expertise on this area, and FG is pulling in other staff people with extensive owl experience. Comment was also made about declining owl populations in the Brewery Mills area. Mission College had their own building plan that wiped out perhaps half of the owls.

## **E) Fees and Funding Update**

Ken referred to Figure 9-1: Base Development Fee Zones to begin the conversation about fees and funding. There are two different fees that apply to development fee zones: 1) fees related to loss of land; and 2) fees related to negative impacts on water, creeks, etc. There is also a restoration fee, which is separate from these zones. The first administrative draft includes four fee zones: Zones A through D.

Zone A comprises mostly natural lands, which are the richest from a species standpoint. The second category, Zone B, is primarily valley floor that is formerly agricultural or is agricultural. Zone B is disturbed and has less habitat value. Zone C is comprised of small vacant sites less than 10 acres surrounded by urban development (i.e. infill sites). Zone D is considered urban intensification area. Originally, the plan included a proposed fee of \$20,000 per acre on Zone A lands, \$10,000 per acre for Zone B, \$5,000 for Zone C, and \$100 for a single-family home located in Zone D.

We've gone back and looked more closely at species differentiation between these areas. First, we asked if the sides of the valley should be split into different fee zones and have determined that this is not appropriate. However, we have concluded that Zone B has more habitat value and so have changed the relative weighting of fees imposed on Zones B and A, respectively, from .5-to-1 to .75-to-1. In terms of species and habitat differentiation, the relative value of Zone C is where we thought it was, about 25% of zone A.

Sentiment existed to drop the Zone D fee. Some argued that this fee was more hassle than it was worth, and the Homebuilders Association had concerns with Zone D fees. Following discussion, we have kept the Zone D fee in the mix for two reasons:

- 1) Agencies want a fee structure in place to address vehicle emissions and nitrogen deposition. Work out of Stanford has demonstrated that fertilization resulting from nitrogen deposition is overwhelming Bay checkerspot butterfly habitat. The feeling now is that nitrogen impacts have spread beyond serpentine habitat and impact other areas, and that we can tackle this by mitigation of vehicle miles traveled (VMT) through a per trip fee on new development.

- 2) Zone D fees are also still alive because AB 32 and SB 375 have been passed and the state is looking at guidelines for implementation. The question here is how should development address impacts to habitat and species? There is talk of using NCCPs as the mitigation of choice to address the habitat/natural lands aspect of global warming.

The Liaison packet includes a memorandum with a revised fee schedule and draft impact fee summary for fees per acre. Land use variation for zone D is related to vehicle trip generation.

Jones & Stokes has analyzed the mature footprint of development by looking at the development footprint based on development proposals and creating a buffer to account for impacts to habitat beyond the building footprint. Establishing this buffer could encourage more compact development. The amount of the fee is a small percentage of the site development cost.

We are going back to the implementing bodies with this, and to discuss stream setbacks, Pajaro watershed issues, and burrowing owls. Today you've been exposed to the highest visibility issues related to the habitat conservation plan at this point in the process.

#### **IV. DISCUSS COMMENTS ON DRAFT PLAN RECEIVED FROM WILDLIFE AGENCIES**

There was no detailed discussion on this topic. David C. would like to know how the significant issues that have been settled to date were resolved. At the last meeting, there was a request to provide a written document with this information. David Z. said that he would do the best he can to provide this information.

#### **V. PUBLIC COMMENT AND NEXT STEPS**

There were no comments from members of the public. Joan noted that there will be updates given next month on other important issues. Please email Joan with issues of special interest for next month's agenda. The next meeting will take place on March 24<sup>th</sup>. The meeting room will be on the agenda when it is distributed, but may also be subject to change.

Ken told the group that he has sent an email to determine if the March 11 Mare Island meeting will focus on all issues or the aquatic conservation strategy. He is still awaiting response.

*Please note the following correction to January 27, 2009 meeting minutes, p. 4 under "Definition of Unforeseen Circumstances."*

The paragraph stating, "David Collier reiterated a point he made previously on a related topic, which is that future, extreme weather patterns cannot be anticipated based on historical events of drought and flooding" can be more accurately re-worded to state the following:

"David Collier reiterated a point he made previously on a related topic, which is that whereas with expected global warming more droughts or more flooding cannot be specifically forecast, more extreme weather events, in general, can be. This implies that we can reasonably foresee either more flooding or more drought – we just don't know which. Hence, more funds need to be allotted to deal with a foreseeable increase, over historical averages, of extreme weather events."

*Pat Showalter's response to inquiry regarding local adoption of model stream setback ordinances:*

Dear Stakeholders,

I wanted to get back to you to respond to questions asked at the Stakeholders Meeting Tuesday. In an effort to develop clear and consistent Guidelines and Standards to protect water and watershed resources throughout the county, and to clarify and streamline the permitting process, the Water Resources Protection Collaborative was convened in 2003. The Collaborative included all the cities in the county, the county itself and the Santa Clara Valley Water District, as well as citizen, business, agriculture and community groups in the county. The guidelines and standards included the riparian corridor protection measures which are summarized on the attached table.

The collaborative met for several years from 2003 to 2007. The entire text of the streamside protection guidelines can be found at [http://www.valleywater.org/Water/Watersheds\\_-\\_streams\\_and\\_floods/Taking\\_care\\_of\\_streams/\\_Guidelines\\_&\\_standards/Guidelines\\_&\\_Standards.shtm](http://www.valleywater.org/Water/Watersheds_-_streams_and_floods/Taking_care_of_streams/_Guidelines_&_standards/Guidelines_&_Standards.shtm).

All the local land use permitting entities in the Collaborative agreed to implement the G&S in their jurisdictions according to their local processes and to enact ordinances and/or resolutions to formalize that commitment.

- City of Cupertino Adopted ordinance February 6, 2007
- City of Gilroy Adopted ordinance April 16, 2007
- City of Los Altos Adopted resolution February 13, 2007
- Town of Los Altos Hills adopted resolution May 24, 2007
- Town of Los Gatos Adopted resolution February 20, 2007
- City of Milpitas Adopted resolution April 3, 2007
- City of Morgan Hill Adopted resolution August 22, 2007
- City of Mountain View adopted resolution November 14, 2006
- City of Palo Alto Adopted amendments to zoning and grading ordinances February 5, 2007
- City of San José Adopted resolution February 13, 2007
- City of Santa Clara Adopted resolution March 6, 2007
- City of Saratoga Adopted resolution May 2, 2007
- City of Sunnyvale Adopted ordinance May 1, 2007

# Riparian Corridor Protection Measures

I. Riparian Corridor Protection	Applicability of the Following Riparian Corridor Protection G&S's: The following guidelines and standards related to planting and removal of plants in this section are applicable in conjunction with a development proposal where SCVWD/city/county reviews landscaping plans.
I.A.1 Protection of the Riparian Zone	Enforce existing City/County/SCVWD general plans, policies, or ordinances related to riparian areas, water quality and source water protection.
I.A.2 Protection of the Riparian Zone	Develop criteria to determine allowable uses within riparian corridor and develop measures to protect existing riparian areas.
I.A.3 Protection of the Riparian Zone	Adopt, as appropriate, riparian corridor buffers consistent with onsite biotic conditions, which may be determined by a qualified professional to protect existing riparian habitat. Sensitive habitat areas should be identified and assigned appropriate buffers.
I.A.4 Environmental and Water Quality	Supplement CEQA guidance and checklist to include environmental impacts relative to temperature and water quality for aquatic life.
I.B Native Plant Removal	Native riparian vegetation is not allowed to be removed unless there is a threat to public health and safety including an imminent danger of induced flooding and/or a biologist/arborist confirms that it will improve the stream ecology or habitat. If vegetation is proposed for removal in conjunction with a development project, mitigation will be provided as defined through the CEQA process and as agreed to by the local agencies and appropriate regulatory agencies.
I.C Planting	Non-native species are not allowed to be planted between top of banks, or within an existing riparian corridor unless approved by appropriate state and federal regulatory agencies. Non-native invasive species are not allowed to be planted adjacent to an existing riparian corridor. Recommend watershed specific natives for major development restoration landscaping.
I.C.2 Planting of Invasive Species	Encourage removal of and do not plant invasive species.
I.C.3 Planting Within Tops of Banks	Planting appropriate vegetation between top of banks as an alternative to hardscape bank protection to promote bank stability, improve habitat, and provide other water quality benefits is encouraged if it does not reduce channel capacity significantly below design flows.
I.C.4 Planting on Levees	No trees may be planted on a levee unless additional fill is placed against the levee.
I.C.5 Planting Next to Water Supply Pipelines	Trees must not be planted within easement or right-of-way of SCVWD water supply pipelines or the minimum required by other jurisdictions, as appropriate.
I.D Irrigation	Irrigation runoff must not be allowed to cause erosion. If within outboard levee slope, irrigation must be bubbler or drip-type systems, and must be used for establishment purposes only. No main lines may be installed in levees.
I.D.2 Irrigation and Planting	Follow efficient water use landscape ordinance requirements for drought tolerant plants and water conservation.
I.E Pesticide and Herbicide Use	Use of pesticides and delineation of responsibility for maintenance on District property or easements shall be conducted as defined by current practice.
I.F Post-Construction Water Quality	Include post construction water quality mitigation measures in proposed development conditions.
I.G Land Uses Next to Riparian Corridors/Streams	Avoid locating loading docks, trash enclosures, chemical storage areas and stationary noise producing mechanical equipment next to streams and riparian corridors. Refrain from locating new paved areas, active recreational areas, agricultural growing areas and grazing activities within riparian corridors.