

Land Use and Covered Activities

[The first half of the preliminary working draft of Chapter 2 (Sections 2.1 and 2.2) were provided to the Stakeholder Group for review on June 16.]

2.1 Introduction

2.2 Land Use

2.3 Covered Activities

[Note to Reader: It is the intent of the Local Partners that the Plan cover as many activities and projects that require take authorization within the permit term and that are consistent with the conservation strategy. The list of covered activities discussed in this preliminary draft section represents a synthesis of activities associated with anticipated population growth and development, current operations and maintenance activities, planned capital projects, and future needs expressed by the Local Partners. This list will undergo extensive additional review and revision by the Local Partners, Wildlife Agencies, and other interested parties before a final list is developed and adopted. The list will also be regularly checked against the evolving conservation strategy to ensure that covered activities are consistent with this strategy.]

This section describes the activities and projects within the study area for which the Plan will provide avoidance, minimization, and compensation for impacts to covered species. These are the *covered activities* for which incidental take authorization from the Wildlife Agencies will be obtained.

Activities are actions that occur repeatedly in one location or throughout the study area. Projects are well-defined actions that occur once in a discrete location. Covered activities, which include both activities and projects, fall into six general categories.

- Urban development
- Operations and maintenance activities within streams

- Capital projects within streams
- Rural development
- Rural operation and maintenance (outside streams)
- Plan implementation (activities within the preserve system)

All activities or projects seeking coverage under the Plan are subject to approval by the local jurisdiction (city or County; see Chapter 8, *Plan Implementation*, for a description of the approval process). Activities or projects that do not fall clearly within the descriptions provided below will be evaluated on a case-by-case basis. An activity or project will be covered under the Plan if it

- does not preclude achieving the biological goals and objectives of the Plan (see Chapter 5, *Conservation Strategy*);
- is a type of impact evaluated in Chapter 4 of the Plan; and
- is consistent with the amount of take coverage¹ assumed for the project or activity and sufficient take coverage under the permits remains available.

2.3.1 Urban Development

This category includes projects and activities that may occur in areas designated as urban development in this Plan's Land Use map (see Figure 2-2 for areas of planned urban development). This category is intended to be as inclusive as possible to accommodate urban growth and all ground-disturbing activities within designated urban areas. It includes the construction and maintenance of typical urban facilities, public and private, consistent with local general plans and local, state, and federal laws. This category includes, but is not limited to, the construction, maintenance, and use of the following urban facilities.

- Residential, commercial, industrial, and other types of urban development within the cities of Gilroy, Morgan Hill, and San José and in areas designated for urban development in the County.
- Transportation facilities including sidewalks, bike paths, paved and unpaved roads, bridges, culverts, and transit facilities.
- Public service and cultural facilities including new fire stations, police stations, community policing centers, communications facilities, public administration centers, convention centers, theatres, museums, community centers, community gardens, and concession buildings.
- Recreational facilities such as neighborhood parks, dog parks, soccer fields, golf courses, indoor and outdoor sports centers, racetracks, campgrounds,

¹ Take coverage is defined in this Plan in terms of land-cover types lost as a result of covered activities. See Chapter 3 for the definition of land-cover types; see Chapter 4 for an estimate of loss of these land-cover types.

and trails, and associated infrastructure including roads, bridges, parking areas, and restrooms.

- Public and private utilities including transmission lines, telecommunications lines, and gas lines.
- Water supply and delivery facilities including water-treatment plants, water-supply pipelines, pump stations, canals and aqueducts.
- Stormwater management facilities such as storm sewer systems, nonpoint source reduction, outfalls, and drainage improvements.
- Waste-management facilities including sewage-treatment plants, sanitary sewer systems and rehabilitation, water recycling, recycling centers, transfer stations.
- Funeral/Interment Services—mortuaries, crematorium, columbaria, mausoleums, and similar services when in conjunction with cemeteries.
- Vegetation management including fuel reduction, tree removal and pruning, grazing activities, exotic vegetation control/removal, hazardous tree work, weed abatement, algae control in ponds.
- Hazardous material remediation for, and restoration related to, abandoned dumps (e.g., Singleton Landfill).

The following major projects within the urban areas of San José, Gilroy, and Morgan Hill are described in more detail below. The Cities of San José, Gilroy, and Morgan Hill have developed several planning documents that outline strategies and projects consistent with current general plans. Examples of current plans that apply to planning in urban areas within the study area include the following.

- City of San José Coyote Valley Specific Plan (City of San José 2006).
- City of San José Greenprint (City of San José 2000).
- City of San José Alum Rock Park Riparian Management Plan (City of San José 2001).
- City of San José Sanitary Sewer Master Plan (City of San José 2004).
- San José Storm Sewer System Capital Program (City of San José 2006b).
- City of Gilroy Hecker Pass Specific Plan (City of Gilroy 2005).
- City of Gilroy Bicycle Master Plan (City of Gilroy 2002).
- City of Gilroy Sewer Master Plan (City of Gilroy 2004).
- City of Gilroy Storm Drain Master Plan (City of Gilroy 2004).
- City of Gilroy Wastewater Treatment Plant Master Plan (City of Gilroy 2006).
- City of Gilroy Water Master Plan (City of Gilroy 2004).

- City of Gilroy Traffic Master Plan (City of Gilroy 2004).
- City of Gilroy Park and Recreation Systems Master Plan (City of Gilroy 2002).
- City of Gilroy Trails Master Plan (City of Gilroy 2005).
- South County Recycled Water Master Plan (Santa Clara Valley Water District and South County Regional Wastewater Authority 2004).

Additional plans will be developed over the course of the permit term of this Plan. To the extent that these plans are consistent with the goals of this Plan, implementation of these plans will be covered by this Plan. The Coyote Valley Specific Plan and Alum Rock Park Riparian Management Plan are discussed in greater detail below as the implementation of these plans may be tied to the conservation strategy and implementation of this Plan.

[Note to Reader: The Local Partners are continuing to review current planning processes and will be providing more information as it becomes available.]

Coyote Valley Specific Plan

In keeping with the planning process set forth in the San José 2020 General Plan for the Coyote Valley Urban Reserve, the San José City Council initiated the Coyote Valley Specific Plan process in 2002. The Coyote Valley Specific Plan, currently under development, strives to plan for future land uses including the required infrastructure and community resources. Coyote Valley is located at the southern end of the City of San José, south of the point where Metcalf Road intersects U.S. 101, and north of Morgan Hill. The plan proposes a new Coyote Valley community over approximately 3,800 acres of a 7,300-acre planning area. The plan includes a mix of urban housing, retail, and workspace land uses as well as various public amenities and key infrastructure elements. At buildout, the plan would include over 26,000 residential units, 1.6 million square feet of retail, and 15.7 million square feet of office, research and development, and industrial workspace. The new development is estimated to bring over 71,600 new residents and over 56,000 jobs to Coyote Valley by the Project's buildout (City of San José 2006d). See Figure 2-1 for the Coyote Valley Urban Reserve overlay and Coyote Valley Greenbelt overlay.

The Coyote Valley Specific Plan is currently undergoing its own permitting process for impacts to federally- and state-listed species under Section 7 of the ESA. Development under the Specific Plan is expected to have up to approximately 140 acres of impacts to jurisdictional waters of the U.S. [*citation and exact acreage impact to come*], so a permit from the Corps will also be necessary. The City of San José is currently working with the Corps and USFWS to develop the compensation program for the Specific Plan that will be compatible with the Plan.

The Coyote Valley Specific Plan is expected to be approved in 2007. Project construction will occur in phases including required infrastructure. Phasing criteria is still being developed and it is unknown how fast development will occur. A recent economic analysis commissioned by San José concluded that the Specific Plan will take up to 58 years to implement in order for the project to be self-sufficient economically (City of San José 2006c).

Because this project is going to be approved during the development of the Plan, it is considered an *interim project*. According to the terms of the Planning Agreement, all interim projects must be accounted for in the impact analysis of the Plan. Therefore, although the Coyote Valley Specific Plan is expected to obtain its own endangered species compliance through the ESA Section 7 process, it is included in this Plan for context and to account for its impacts as an interim project.

The Coyote Valley Specific Plan will be obtaining take authorization for a limited number of federally-listed species including Bay checkerspot butterfly, California red-legged frog, and California tiger salamander. It will not receive take authorization from the state for any species or from the federal government for non-listed species. The project will mitigate for impacts to some non-listed species such as western burrowing owl through the CEQA process.

The development proposed by the Coyote Valley Specific Plan will be covered by the Plan, consistent with the Plan conservation strategy, in order to

- provide federal take authorization for non-listed covered species,
- provide state take authorization for all covered species, and
- provide long-term assurances to the City for all covered species².

In order to receive this additional take authorization, the mitigation “package” developed by the City must meet the conservation standards outlined in this Plan.

The Plan will cover the footprint of the development proposed in the Coyote Valley Specific Plan as well as the Specific Plan itself. This Plan will therefore provide take authorization for urban development that may occur in Coyote Valley in the event that the Specific Plan is not approved or not implemented. Development in Coyote Valley outside of the Coyote Valley Specific Plan would have to occur under a separate Specific Plan or other land use planning process consistent with the requirements of the local jurisdiction.

[Note to Reader: The Coyote Valley Specific Plan is being evaluated for its consistency with the emerging conservation strategy of the Plan. The Specific Plan will be covered by the Plan only to the degree that it is consistent with that conservation strategy.]

² Long-term assurances are not available from the federal Wildlife Agencies through a Section 7 consultation.

Alum Rock Park Riparian Management Plan

Alum Rock Park is among the largest of San José's parks. It is also California's first and oldest city park, dedicated in 1872. Located within the Alum Rock Canyon, the park's 740 acres provide hiking, horseback riding, bicycling, picnicking opportunities, and environmental education opportunities.

In 1997 and 1998, heavy rains led to landslides and high flows that damaged streambank revetments along the creek. In response to concerns raised by regulatory agencies on the techniques used to repair damaged sections of stream and streambank structures, the City prepared the Alum Rock Park Riparian Management Plan to provide a comprehensive management strategy to protect and restore the riparian and aquatic resources along Upper Penitencia Creek within the Park (Biotic Resources Group et. al 2001).

The Alum Rock Park Riparian Management Plan identifies historic and existing conditions of riparian and aquatic resources in the park, provides an opportunities and constraints analysis for riparian management and restoration in the park, and outlines several riparian management and restoration actions that may be applicable for resource management within Alum Rock Park. Examples of riparian and wetland restoration guidelines in the document include utilization of bio-technical design to stabilize stream banks, floodplain expansion, and use of native plants. Activities undertaken as part of the Alum Rock Park Riparian Management Plan will be covered by this Plan.

[Note to Reader: This section may be moved to the Plan Implementation category if Alum Rock Park becomes part of the Plan reserve system. It contains important open space and habitat for many covered species.]

2.3.2 Operations and Maintenance Activities Within Streams

Activities within streams are those activities or projects that occur in or immediately adjacent to creeks and that may result in impacts to a creek. This category includes activities in the stream channel, along the stream bank, and adjacent to lands at top-of-bank including maintenance of access roads and installation of pedestrian/biking trails. These covered activities occur in both urban and rural areas. The following section discusses covered capital projects and operations, and maintenance activities in or adjacent to streams.

The majority of operations and maintenance activities within streams are undertaken by the SCVWD, which is responsible for maintaining the majority of streams and channels in the study area. Most of the other Permittees also conduct activities within streams not under the jurisdiction of SCVWD. For example, Santa Clara County Department of Parks and Recreation is responsible for routine maintenance within County parks, including properties leased by the

County for parks. The cities of San José, Gilroy, and Morgan Hill also maintain some stream segments within their jurisdictions [*to be verified*]. The following operations and maintenance activities within streams are covered by this Plan.

- Facility maintenance such as trail repair, trash removal, installation of fences, accumulated sediment removal, and trail, bridge, road, and culvert repair and/or replacement.
- Vegetation management for exotic species removal and native vegetation plantings.
- Natural resource protection such as small banks stabilization projects, restoration to reduce erosion, fish passage enhancements, and removal of debris deposited during flooding.
- Storm damage repair and prevention projects including drainage improvements.
- Flood protection facility operation and maintenance including dams, armored creeks, detention ponds, and streams.
- Mitigation and/or monitoring in creeks or adjacent riparian corridors.
- Vegetation management for exotic species removal and native vegetation plantings, such as removal of giant reed.
- Reservoir drawdown for normal operation purposes.
- Reservoir filling.
- Gauge station maintenance upstream of reservoirs.
- Use and maintenance of spreader dams.
- Non-routine stream maintenance performed by SCVWD for water supply and flood protection including removal of trees larger than 6 inches in diameter, levee maintenance including rodent control using non-lethal (i.e., not rodenticide) methods, repairs to the Coyote Canal, implementation of a regional invasive vegetation removal program, and maintenance of stream gauge and rain gauge facilities including vegetation and/or sediment removal. (Routine stream maintenance activities are already covered by the SCVWD Stream Maintenance Program; see discussion below.)
- Stream maintenance performed by SCVWD adjacent to serpentine habitat (e.g., Coyote Canal through the Santa Teresa Hills).
- SCVWD Fisheries Aquatic Habitat Collaborative Effort actions (see discussion below).
- Water utility/water supply operations and maintenance including the SCVWD Dam Maintenance Program (see discussion below).
- Stream flow management for the Uvas/Llagas, and Pajaro watersheds.

A detailed list of the operations and maintenance activities of SCVWD covered by this Plan are found in Appendix F. Activities associated with habitat enhancement and restoration are listed under *Plan Implementation*.

Existing Santa Clara Valley Water District O&M Programs

Currently, the SCVWD has in place or is developing two permitting programs to provide incidental take coverage for operations and maintenance activities in streams separate from the Plan. In addition, SCVWD has developed a Dam Maintenance Program that also includes operations and maintenance activities within streams.

- The SCVWD Stream Maintenance Program.
- The SCVWD Fisheries Aquatic Habitat Collaborative Effort (FAHCE) HCP.
- Dam Maintenance Program.

Stream Maintenance Program

The Stream Maintenance Program was developed to streamline the permitting process for routine stream maintenance activities, thus allowing SCVWD to continue preserving the existing level of flood protection of streams and water-delivery function of canals in the County in an efficient manner. The Stream Maintenance Program was authorized in 2002 and the impact analysis of the program was based on a 20-year study period. Permits received under the program include: Section 7 Biological Opinion through Corps 404 Permit, Corps 404 Permit, CDFG 1601 Streambed Alteration Agreement, RWQCB Waste Discharge Requirements Permits (Central Coast and SF Bay Districts), and a BCDC permit. The Stream Maintenance Program provides coverage for the following activities on streams for which SCVWD has maintenance responsibilities:

- Vegetation management for in-stream and upland areas. Management is done using herbicide and mechanical techniques.
- Sediment removal to return engineered channels to as-built conditions.
- Bank protection for erosion control.
- Minor maintenance activities that are smaller and avoid significant impacts requiring mitigation. This category includes such things as graffiti removal and repair of structures with in-kind materials within the same footprint, and tree pruning along maintenance roads and fence lines to provide access and to remove hazards.

Under the Stream Maintenance Program, routine maintenance is undertaken with consideration of special-status species that may be impacted by the activities. Detailed best management practices were developed, and are continually updated through adaptive management, to reduce impacts to special-status species. In addition, SCVWD is responsible for mitigation associated with its maintenance activities. As mitigation for the Stream Maintenance Program, SCVWD will restore 30 acres of tidal wetlands, create 14 acres of freshwater wetlands, purchase approximately 1,000 acres in the upper watershed areas for stream and watershed protection, and conduct 125 acres of giant reed (*Arundo donax*) control including removal and follow-up monitoring and removal. Lands restored or purchased will be preserved in perpetuity as open space.

The Stream Maintenance Program provides incidental take coverage for five federally-listed species, three of which are also covered by this Plan³. Existing permits also address impacts to waters of the United States and waters of the state. This program is anticipated to provide regulatory coverage for federally-listed species through 2022 when additional impact analysis of activities would be required to extend the Stream Maintenance Program permits. Because these activities already have endangered species coverage under the Stream Maintenance Program, they do not require coverage under the Plan and will therefore not be covered by this Plan.

The Stream Maintenance Program permits do not cover non-routine activities. Therefore, most non-routine stream maintenance activities within the study area will be covered by this Plan.

FAHCE Habitat Conservation Plan

The SCVWD is in the process of developing a separate HCP for a stream habitat restoration program called the Fisheries Aquatic Habitat Collaborative Effort (FAHCE). The purpose of this program is to balance four beneficial uses of water in three watersheds in Santa Clara County: water supply, fisheries protection, flood protection, and recreation (SCVWD 2002b). The centerpiece of this ten-year collaborative effort is the *Settlement Agreement Regarding Water Rights of the Santa Clara Valley Water District on Coyote, Guadalupe, and Stevens Creeks*, one of the most comprehensive and long-term fisheries agreements in California. This settlement agreement must be considered a draft until it can be resolved by the State Board. It is expected that the SCVWD will petition the State Board for hearings on FAHCE in 2007. The expected settlement will improve, and in perpetuity, maintain habitat for two species of fish, steelhead trout and Chinook salmon, that migrate from San Francisco Bay to spawn upstream in several major Santa Clara County watersheds. The habitat restoration component of the FAHCE program focuses on improving habitat for salmonids by implementing three general types of activities:

³ The Bay checkerspot butterfly, California red-legged frog, least Bell's vireo, salt marsh harvest mouse, and Western snowy plover are covered by the SCVWD Stream Maintenance Program; the first three are also covered by this Plan.

- Reoperation of Stevens Creek, Guadalupe, and Anderson reservoirs (May 1 through October 31) to maintain areas of permanent cold water downstream of these dams (i.e., in defined Cold Water Management Zones) suitable for spawning and rearing of steelhead trout.
- Provide winter base flows and spring pulse flows from Stevens Creek, Guadalupe, Almaden, Calero, and Anderson reservoir to enhance upstream passage and spawning condition for adult Chinook salmon and steelhead trout and to enhance conditions for juvenile steelhead and Chinook salmon migration to the Bay in the spring.
- Enhance the physical conditions of streams in selected reaches, including removal of passage barriers, planting of riparian vegetation, and development of more complex in-channel habitat at appropriate locations.

The geographic area of the FAHCE program occurs within three watersheds (Stevens Creek, Guadalupe River, and Coyote Creek), and includes the riparian zones within and immediately adjacent to the eight channels identified below.

- Stevens Creek (at and below the Stevens Creek Dam)
- Los Gatos Creek (at and below Lexington Reservoir)
- Guadalupe Creek (at and below Guadalupe Reservoir)
- Alamos Creek (at and below Almaden Reservoir)
- Calero Creek (at and below Valero Reservoir)
- The Guadalupe River (at and below the confluence of Alamos Creek and Guadalupe Creek)
- Coyote Creek (at and below Coyote and Anderson Reservoirs, and including the Coyote Canal)
- Penitencia Creek (below Cherry Flat Reservoir)

The geographic area of the FAHCE program overlaps with the Plan study area, but not completely. The FAHCE program includes the Stevens Creek, Guadalupe, and Coyote watersheds but does not include the Pajaro/Uvas/Llagas watershed. The Plan study area does not include the Stevens Creek watershed.

The FAHCE restoration actions are part of a 2003 settlement agreement between the SCVWD, USFWS, NMFS, CDFG, the Guadalupe-Coyote Resource Conservation District, Trout Unlimited, the Pacific Coast Federal of Fisherman's Associations, and California Trout, Inc. (SCVWD 2003). This settlement agreement arose from a 1996 complaint brought by the Guadalupe-Coyote Resource Conservation District, Trout Unlimited, and the Pacific Coast Federal of Fisherman's Associations with the State Water Resources Control Board alleging that the SCVWD was degrading fish and wildlife habitat and water quality through improper water use. Extensive scientific investigations were undertaken between 1998 and 2001 in response to this complaint. Negotiations based on these studies led to the 2003 settlement agreement. One requirement of

the settlement agreement is for SCVWD to develop an HCP for the FAHCE restoration program to provide federal take authorization associated with the restoration activities.

Agencies actively partnering with the SCVWD to implement FAHCE include the CDFG, USFWS, NMFS, San Francisco Bay Regional Water Quality Control Board, Natural Heritage Institute, and the City of San José.

The FAHCE HCP is anticipated to have a permit term of 50 years. The permit is expected in 2008, so take coverage is expected to be provided through 2058. This document is in draft form at this point (August 11, 2006), so changes are expected as the report is finalized.

The current FAHCE HCP draft considers the impact on many species, but identifies potential take from FAHCE activities of two listed animal species: steelhead trout, and red-legged frog (Table 2-4). The take of plant species should be very small, but will require some coverage. There is no requirement and SCVWD has no plans to seek take authorization from CDFG for the FAHCE restoration program, and the FAHCE program is too small to qualify as an NCCP on its own. To provide long-term assurances from CDFG, this Plan will provide take authorization from for FAHCE activities under the NCCP permit. NCCP coverage by this Plan for FAHCE activities will be provided for the 19 covered species that are common to the two plans (Table 2-4).

The activities covered by the FAHCE HCP are generally intended to enhance conditions for steelhead and Chinook salmon, while maintaining use of these watersheds to meet the water-supply needs of northern Santa Clara County. The FAHCE program addresses both modifications to flow and modifications to physical habitat conditions.

All activities covered by the FAHCE HCP will also be covered by the Santa Clara Valley HCP/NCCP within Guadalupe Creek, Alamitos Creek, Calero Creek, the Guadalupe River, Coyote Creek, and Penitencia Creek in the reaches identified above. FAHCE activities within Los Gatos Creek will be covered by this Plan at and below Vasona Lake. The Santa Clara Valley HCP/NCCP does not include Stevens Creek or Los Gatos Creek above Vasona Lake so cannot provide coverage for FAHCE activities in those stream reaches.

Within these covered reaches, FAHCE covered activities will be limited to the channel, adjacent riparian zones, and adjacent upland areas that provide access to the riparian and channel areas. Some activities will also occur within the boundaries of the existing recharge basins served by these creeks. The FAHCE activities covered by this NCCP for the covered species listed in Table 2-4 are:

- Modifications of reservoir operations to ensure year-round cold water conditions suitable for steelhead, in particular to provide for appropriate

summer rearing conditions for juvenile steelhead in the Stevens Creek and Coyote Creek watersheds⁴;

- Modifications of reservoir operations to provide enhanced flow during steelhead and Chinook salmon spawning runs;
- Modifications of reservoir operations to provide for enhanced flow during periods when juvenile steelhead and Chinook salmon may be migrating to the estuary;
- Modification and/or maintenance of reservoir outlet facilities to ensure that FAHCE flow regimes may be implemented;
- Routine and corrective maintenance of dams and facilities associated with dam operation, including (a) vegetative management, (b) rodent control, (c) sediment relocation or removal for maintenance of inlet-outlet facilities, (d) lowering of reservoirs for maintenance, (e) concrete repair, (f) road grading and re-surfacing, (g) drainage, erosion, and seepage control, (h) repair and installation of instrumentation, (i) minor excavations, (j) trash and debris removal, (k) other minor repairs;
- Upgrading of dam embankments to meet mandated seismic safety standards (seismic retrofit);
- Physical modifications to selected in-channel structures to improve upstream and downstream fish passage, including modifications to streamflow measurement structures, conversion of various types of diversion dams to inflatable dams, and screening of diversions to limit potential to entrain fish and other aquatic animals into recharge basins;
- Monitoring and adaptive management;
- As specified in the FAHCE program or as an adaptive management measure, planting and maintaining riparian vegetation along selected channel reaches, including activities such as placement of large woody debris in channels to enhance stream habitat diversity;
- Potential modification of channels and adjacent riparian areas to meet non-FAHCE mitigation commitments in reaches where these commitments supplement commitments made under the FAHCE Settlement Agreement;
- Modifications of recharge facilities along Coyote Creek to further isolate them from the active channel;
- The on-going operation of diversions to recharge and discharge water (from recharge basins and from out-of-watershed sources) to the various channels covered by the FAHCE program;
- The on-going operation, including periodic installation, of flashboard dams and temporary spreader dams for diversions and instream recharge; and

⁴ Flow releases under FAHCE will be subject to any restrictions imposed by the California Division of Safety of Dams regarding dam safety and operations. See the FAHCE HCP for more details.

- Installation and seasonal operation of three removable flashboard-type dams in the channels below CWMZs in Coyote and Stevens creeks to retard and spread flows in the creek and enhance in-channel recharge of reservoir, pipeline, and/or reclaimed water releases.

Dam Maintenance Program

The purpose of the Dam Maintenance Program is to make it possible for SCVWD to perform the activities associated with operation, maintenance and repair of the water supply dams, and appurtenant structures within its jurisdiction such that these activities can be conducted in an efficient, cost effective, and environmentally conscience manner. The goal of the Dam Maintenance Program is to help ensure the reliability and safety of SCVWD dams and reservoirs for the residents of Santa Clara County and other affected counties. The program is required to comply with the State of California Division of Safety of Dams (DSOD), who have jurisdiction over the District's dams, and with the requirements of the Federal Energy Regulatory Commission (FERC) regarding Anderson Dam (the only dam within the study area that generates hydroelectric power). Many of the Dam Maintenance Program activities are required by DSOD or FERC.

The Dam Maintenance Program identifies operations and maintenance activities required to maintain the 12 dams (including Coyote Percolation and Rinconada) within SCVWD jurisdiction. Nine of these dams (Almaden, Anderson, Calero, Chesbro, Coyote, Coyote Percolation, Guadalupe, Uvas, and Vasona) are located within the study area. Implementation of the Dam Maintenance Program is a covered under this Plan. Dam maintenance activities covered by this Plan include the following.

- Drawdown of reservoirs to repair intake structures and hydraulic systems.
- Drawdown of reservoir due to seismic safety restrictions or other reasons.
- Clearing dam faces of shrubs and woody material.
- Resurfacing or otherwise maintaining or repairing access roads to dams.
- Minor sediment removal as required for maintenance of intake structures and hydraulic systems.
- Rodent control on dams.
- Erosion control, including dam face, access roads, and in streams/plunge pools below spillways.
- Concrete repairs.

2.3.3 Capital Projects Within Streams

Capital projects that are proposed for coverage under this Plan are discussed below.

Flood Protection Capital Projects

The SCVWD has several capital projects planned to address flood protection. In designing these projects, the SCVWD utilizes methods that balance the need to provide flood protection with the need to protect streams and natural resources. A few examples of these methods include gabion walls which allow plants to establish, crib-walls made of dead trees that help vegetation to establish and will eventually decompose, and bypass channels to reduce the quantity of water flowing through natural streams during high flows, thus reducing flooding potential. These flood-protection technologies help keep streams as natural as possible. Please see Appendix F for a list of SCVWD projects, including flood protection-capital projects, anticipated to occur within the permit term of the Plan.

Coyote Watershed Stream Stewardship Plan

The Coyote Watershed Stream Stewardship Plan addresses flooding and environmental issues through an integrated approach to watershed management. The SCVWD developed the Coyote Watershed Stream Stewardship Plan to provide a strategic approach for implementing the Ends Policy using a watershed management approach to provide stream stewardship within the Coyote watershed. The Ends Policy, in part, envisions a watershed in which: 1) There is a healthy and safe environment for residents and visitors; and 2) There is an enhanced quality of life in Santa Clara County (Santa Clara Valley Water District 2002). This plan documents long-range projections of several agencies, incorporates information from ongoing District projects, and defines future projects and strategies to achieve the District's Ends Policy in the watershed. Projects implemented under this plan include, but are not limited to, flood control projects, new trails, acquisition of open space, and stormwater detention and infiltration (Santa Clara Valley Water District 2002). All projects and activities proposed under the Coyote Watershed Stream Stewardship Plan will be covered by this Plan. Examples of projects described in the plan include the following.

- **U.S. Army Corps of Engineers Berryessa Creek Project.** The primary objective of this project is to ensure flood protection from a 100-year (1%) flood event, improve creek maintenance while enhancing riparian and fisheries habitat, and provide recreational access to the public (Santa Clara Valley Water District 2002).
- **Lower Silver Creek between I-680 and Lake Cunningham.** The purpose of this project is to ensure flood protection from the 100-year (1%) flood

event. The project also provides fish passage and improved riparian habitat by eliminating barriers, constructing a low-flow channel with resting pools, and planting vegetation along the creek (Santa Clara Valley Water District 2002).

Trails, Parks & Open Space Program

As part of the Clean, Safe Creeks and Natural Flood Protection Program, SCVWD is directed to protect public health and safety and enhance the quality of life within Santa Clara County. The Trails, Parks and Open Space program supports this mandate by providing public access to 70 miles of trails or open space along creeks over the course of the 15-year program. Projects implemented through this program will be covered by the Plan. Please see Appendix F for a table of proposed trails in the study area.

Levee Reconstruction

The Federal Emergency Management Agency recently required that levees throughout the United States be evaluated according to current level construction standards. Levees will need to be recertified and the details of the recertification process are being developed. SCVWD owns over 100 miles of levees, however, most are located outside of the Plan study area. For the purposes of this Plan, it is presumed that all levees within the study area will need to be reconstructed over the course of the permit term. These reconstruction activities will be covered by this Plan.

[Note to Reader: We are working with the SCVWD to calculate the total miles of levees and document their locations within the study area. This will be added to the description above when available.]

New Bridge Construction and Replacement/ Rehabilitation

The Santa Clara County Roads and Airport Department maintains 91 bridges in the study area and the City of San José maintains an additional 23 bridges. The lifespan of a typical bridge is approximately 50 years. Therefore, over the course of the 50-year permit term, every bridge within the study area will likely need major repair or replacement. Similarly, as development within urban areas progresses, new bridges will likely need to be constructed. New and rehabilitated bridges will be designed to federal and state guidelines at the time of construction. In most cases, new bridges will be wider than the bridges they replace to accommodate growth in vehicular traffic, bicycles, and pedestrians. Road widening will require adding imported borrow and new asphalt, concrete, and aggregate base for pavement. Most bridges will be built on pile foundation,

cast-in-drilled-hole pile, or spread footing foundations. Excavation for foundations may be required. Slope paving will be included in the scope of work to protect/improve channel slopes at the bridge. Bridge repair and rehabilitation may be similar to bridge replacement in scope, often requiring roadway widening, new deck support structures, and seismic retrofitting. The construction of new bridges, as well as repair and replacement of all existing bridges, both within and outside urban areas, is a covered activity of this Plan.

Water Supply Capital Projects

Dam Repair and Seismic Retrofit

The SCVWD and Santa Clara County Department of Parks and Recreation operates their dams under regulation by the State of California Division of Safety of Dams (DSOD), a division of the California Department of Water Resources. In addition, Anderson Dam is also regulated by the FERC. DSOD and FERC periodically inspect and evaluate the safety of dams based on current seismic safety standards for the design of dams. If either regulatory agency determines that an existing dam does not meet current safety standards, DSOD or FERC may require either dam retrofit or reduction of the level of water in the reservoir to increase freeboard, thus reducing storage capacity.

As dams within the study area age, and as seismic design standards become more rigorous, it is likely that several dams in the study area will require seismic retrofitting within the permit term. Currently, SCVWD operates Coyote Reservoir at reduced capacity due to requirements of DSOD related to seismic compliance. It is likely that Almaden, Calero, and Guadalupe Reservoirs will require seismic retrofitting within the permit term of this Plan. It is also possible that some dams may require complete reconstruction. Additionally, it is possible that dam height may be increased to allow for a permanent increase in freeboard without jeopardizing the original design capacity of the reservoir.

[Note to Reader: SCVWD has indicated that it may need to rebuild some or all of its eight dams within the study area during the permit term to seismically upgrade these facilities. Some of these rebuild projects may include expanding the reservoir storage capacity. We are awaiting more information on these projects before including more details about them in the preliminary draft chapter.]

[Note to Reader: We are working with City of San José to determine if the City requires coverage for seismic retrofits to the Cherry Flat Reservoir Dam.]

Pacheco Reservoir Enlargement

A significant amount of SCVWD's current water supply passes through the San Luis Reservoir. Not all of the water currently contracted to SCVWD by the U.S.

Bureau of Reclamation from San Luis Reservoir is available to SCVWD. During late summer months, when water levels are low in the San Luis Reservoir, a thick layer of algal growth forms at the reservoir's surface and may be drawn into the intake. When this occurs, the concentration of algae may be so high that the water becomes untreatable. The result is that while several hundred thousand acre-feet of water remain in the reservoir, SCVWD and other water supply agencies such as the San Benito County Water Agency cannot utilize this water. This issue is known as the "low point problem," indicating the level of the San Luis Reservoir at which algae levels become an issue (Jones & Stokes and MWH 2003).

As the population of Santa Clara County continues to grow, SCVWD anticipates that the county will require additional water supply storage capacity to provide operational flexibility beyond the capacity of existing reservoir basins. In efforts to add operational flexibility to the San Felipe System (the system of tunnels and pipelines that brings water into the county from the San Joaquin Valley through the Pacheco Pass) and to assist with the solution to the San Luis Reservoir low point issues, several solutions or "feasible alternatives" are being studied. Of those alternatives, one being studied is the rebuilding of the dam at the existing Pacheco Reservoir site to increase available storage. The scope, schedule, and cost of the design and construction phases will be defined when a planning study is complete; however, the SCVWD Board of Directors has passed a resolution stating that the reservoir would not extend into Henry W. Coe Park. Other alternatives are also being investigated.

Other Water Supply Capital Projects

[Note to Reader: More details on these potential covered activities to follow.]

- SCVWD to develop additional groundwater recharge capacity of approximately 14,000 acre-feet per year through in-stream recharge and off-stream ponds in the Coyote and Llagas sub-basins.
- SCVWD to develop facilities to capture shallow groundwater for beneficial uses. Activities may occur in the Coyote Valley and may require installation of piping to connect to a distribution system or treatment facilities.
- SCVWD to construct four wellfields, each containing five wells along the east side of the Santa Clara Valley within the Coyote Watershed. Each well will have a capacity of 1,500 gallons per minute, collectively supplying up to 40 million gallons per day.
- SCVWD to construct wellfields in the Uvas/Llagas watershed. Twenty new wells will each have a capacity of 1,500 gallons per minute, collectively supplying up to 40 million gallons per day.

Other Capital Projects Within Streams

- SCVWD to build and install hydroelectric plants at SCVWD dams as energy demand increases.
- SCVWD to build and install floating solar panels at SCVWD-owned reservoirs.

2.3.4 Rural Development

Projects in rural areas provide infrastructure that supports urban development (Figure 2-1). This category includes specific projects taking place outside the city-defined planning limits of urban growth. Activities that take place within stream channels are discussed separately under Sections 2.3.2 *Operations and Maintenance Activities Within Streams* and 2.3.3 *Capital Projects Within Streams*.

Projects described below are capital projects. The operation and maintenance (O&M) of these projects, as well as O&M activities for existing facilities, are described in Section 2.3.5, *Rural Operations and Maintenance*. Rural development activities that are proposed for coverage under this Plan include, but are not limited to, the following activities.

- Residential (including privately-owned bridges, driveways, and private access roads), commercial, industrial development within urban unincorporated areas of the County, including San Martin, consistent with the County General Plan (County of Santa Clara 2001).
- Rural residential development (e.g., ranchettes, small subdivisions) consistent with the County General Plan (County of Santa Clara 2001).
- City of San José candidate solid waste facility (see discussion below).
- Implementation of SCVWD's Dam Instrumentation Project. Activities include a field geotechnical exploration drilling program and to provide a corresponding Automated Data Acquisition System for the eight SCVWD dams located within the study area.
- Rural transportation projects (see description below).
- Bicycle and pedestrian improvements.
- Implementation of the South County Airport Master Plan (see description below).
- Development of new large recreational facilities such as golf courses.
- Intensive agriculture activities such as cut flower nurseries, Christmas tree farms, nurseries, dairies, and livestock feedlots.

- Trail construction including the Coyote Creek Parkway trail restoration and reconstruction and implementation of the Countywide Trails Master Plan in rural areas (see description below).
- Park improvements including but not limited to park entrances, staging areas, restroom and shower facilities, wash stations, trails, access roads, bridge construction, potable water systems, buildings, dam and canal systems.
- Trail creation and trail restoration of “volunteer” trails created without authorization at Motorcycle Park County Park.
- Facility closures including but not limited to trails and landfills.
- Facility development and expansion including offices, office drainage improvements, and visitor centers.
- Capital improvement projects by County Parks (see Appendix F for a detailed list of projects).

The following planning documents have been or will be developed by County Parks and are proposed for coverage under this Plan.

- Coyote Creek Integrated Master Plan. Activities will include a new alignment of the Coyote Creek paved bike and pedestrian trail with separate equestrian trail, and acquisition and development of the riparian habitat corridor (*final plan to be cited when complete in late 2006*).
- Coyote Lake Harvey Bear Ranch Master Plan. Activities will include an 18-hole golf course, 10-acre off leash dog park, equestrian center, fishing pond, large group picnic area, and the Outdoor Adventure Center/Nature Center Building and youth camp area (County of Santa Clara 2004).
- Martial Cottle Ranch County Park Master Plan. Projects may include rehabilitation of historic buildings, interpretation of historic buildings, urban edge farming on approximately 75-100 acres, community gardens, creation of a lake, picnic grounds, restrooms, sewer, water and other utilities (*final plan to be cited when complete*).
- Mount Madonna Trails Master Plan (*final plan to be cited when complete*).
- Calero County Park Trails Master Plan (*final plan to be cited when complete*).

Please see Appendix F for a more detailed list of Santa Clara County Department of Parks and Recreation projects that are proposed for coverage under this Plan.

City of San José Candidate Solid Waste Facility

The San José 2020 General Plan states that the collection and disposal of solid waste is a fundamental community service regulated by the City of San José for the benefit of its residents and businesses. Since the 1980’s, the City has had a policy of maintaining solid waste capacity for all City residents within city limits.

Furthermore, solid waste collection and disposal is a significant revenue contributor to the City's general fund. The City has ratified the United Nations accord to reduce the waste stream to zero by the year 2040. However, even with the significant efforts the City has undertaken to extend the life span of the five existing landfills⁵, all of these facilities are expected to reach capacity limitations between 2020 and 2030. This means the City will need one new solid waste facility to come on line during the permit term of the Plan.

Preliminary estimates are that the new facility would need to be on a site between 200 and 600 acres in size with a 10 million ton, 20-year capacity. The City's San José 2020 General Plan Land Use/Transportation Diagram designates three candidate solid waste landfill sites. This land use designation indicates a "floating" general location under consideration for development as an active solid waste landfill site. The three candidate sites are located in Encinal, Metcalf, and Tennant Canyons. There was little or no evaluation of these candidate sites when they were first proposed by city staff in the early 1970s (S. Lacaze, pers. comm. 2006). In addition, environmental standards governing landfill siting has changed substantially since the sites were originally considered. Therefore, any new solid waste facility would need to go through an extensive and rigorous siting evaluation, environmental review, and public review process. The City currently plans to initiate such studies in 2010 or 2011. The technical studies and environmental and public review process is expected to take approximately 10 years.

It is anticipated that the need and location for the existing candidate solid waste landfill sites, as well as other alternative locations, will be revisited as part of the next City-wide General Plan update process. The following are a summary of the existing landfill siting criteria listed in the Goals and Policies section of the City of San José General Plan (pp. 100).

Landfill Siting Criteria

1. Solid waste sites should be located outside of the Urban Service Area (Zanker Road and Owens-Corning landfills are exempt).
2. Preference should be given to inland non-urban sites for future solid waste landfill facilities.
3. New solid waste landfills should be established only on lands designated with the Candidate Solid Waste Landfill Site overlay ("CSW"). The Candidate Solid Waste Landfill Site overlay is compatible with the underlying designations of Public/ Quasi-Public, Non-Urban Hillside and Private Open Space.
4. New Candidate Solid Waste Landfill Sites should be located at least 1/2 mile from areas with existing or planned residential uses at urban densities.

⁵ Newby Island, Zanker Road, Zanker Materials Processing Facility (formerly the Owens-Corning site), Guadalupe Mines, and Kirby Canyon.

5. Access routes to solid waste landfill sites in non-urban areas should be designed and controlled so as to avoid encouraging urban development on adjacent or nearby properties.
6. Solid waste landfills should be discouraged in the proximity of existing or planned airports.
7. Only when solid waste landfills have incorporated adequate mitigation measures should they be located on lands that are susceptible to landslides, faulting, seismically induced ground failure, 100-year flood inundation, salt water inundation, or dam inundation; or which have a high water table, are within a reservoir drainage basin, in wetlands or in areas of granular soils with potential for seismic failure which may result in the introduction of leachate into groundwater aquifers.
8. Solid waste landfills should be designed and operated in such a manner as to minimize their attractiveness to birds, insects and rodents.
9. Solid waste sites should be planned, located and maintained to mitigate potential negative impacts on surrounding land uses, particularly in residential areas. The effects of increased traffic and traffic hazards, noise and odor problems, pollution and potential littering of traffic routes, including windborne and waterborne litter, should be mitigated.

[Note to Reader: We will be conducting preliminary evaluations of the three candidate solid waste facility sites to determine if they are still feasible given current engineering and environmental standards.]

Rural Transportation Projects

Specific transportation projects taking place outside urban areas are also included as covered activities in this Plan. These rural transportation projects provide infrastructure that supports existing urban development and urban development planned under current general plans (Figure 2-~~X~~ [figure to come]). Only projects that were reasonably well defined at the time of Plan approval are included in the Plan.

[Note to Reader: A list of specific projects beyond VTP 2030 will be available once the South County Circulation Study is completed in January 2007.]

[Note to Reader: A programmatic description for transportation projects covered under this Plan may be developed that would include a maximum allowable acreage of projects.]

Transportation projects within urban areas are considered part of urban development (Section 2.3.1). Rural transportation projects and activities proposed for coverage under this Plan include the following.

- Construction and expansion of County roads including bridges, intersection level-of-service improvements, grade separations, and soundwall installation.
- Road repair and rehabilitation. Activities may include construction of retaining walls to stabilize adjacent embankments.
- Channel modifications incidental to stream bank stabilization and road restoration.

Table 2-5 contains a list of rural transportation projects proposed for coverage under this Plan. The specific projects identified were derived in large part from the VTP 2030 and supplemented with project information provided by the Local Partners.

South County Airport Expansion San Martin

The South County Airport is located within the unincorporated community of San Martin in Santa Clara County. The airport is bounded by U.S. 101 to the east, San Martin Avenue to the north, and Murphy Avenue to the west. A mixture of residential, commercial, and industrial uses surrounds the Airport on all sides.

South County Airport is owned and operated by the County of Santa Clara. The airport encompasses 179 acres and consists of a single runway and two parallel taxiways on either side of the runway. A large building area, containing nearly all of the airport buildings, is located west of Runway 14-32.

A new Master Plan for the South County Airport was developed in 2005 (County of Santa Clara 2005). This plan outlines the expansion and redevelopment of the airport. Actions may include extending the runway, realigning the runway, realigning taxi lanes, remodeling airport facilities and terminal buildings, relocating the existing animal shelter, and upgrading lights and signage. Projects and activities related to the full implementation of the South County Airport Master Plan are covered by this Plan.

Countywide Trails Master Plan

The vision of the Countywide Trails Master Plan (County of Santa Clara 1995) is to provide a contiguous network of regional, sub-regional, and connector trails that: connects cities to one another and to other open space and parklands; accommodates national, state and regional trails that pass through Santa Clara County; connects County parks to one another, and connects the northern and southern urbanized regions of the County. The Countywide Trails Master Plan was updated in 1995 to direct the County's trail implementation efforts. The Countywide Trails Master Plan was originally developed and integrated into the County general plan in 1995. The update was completed through a collaboration of the County, a citizen advisory committee, and other stakeholders.

Activities undertaken as part of the implementation of the Countywide Trails Master Plan include, but are not limited to, acquisition of trails and trail easements, trail development, and installation of related infrastructure such as bridges, staging areas, restrooms, and parking lots. Projects described in the Countywide Trails Master Plan that are within the study area are covered under this Plan.

Coyote Creek Integrated Master Plan

[Note to Reader: This is a placeholder until the draft plan is released and a summary can be incorporated into this document.]

2.3.5 Rural Operations and Maintenance

This category includes the rural operations and maintenance activities listed below. Activities are listed by the Local Partner seeking coverage for that activity. Operations and maintenance activities within streams are described separately in Section 2.3.2, *Operations and Maintenance Activities Within Streams*.

Santa Clara Valley Water District

SCVWD operations and maintenance activities outside of streams that may receive coverage under this Plan include the following.

- Water utility/water supply operations and maintenance including the Pipeline Maintenance Program (see description below).
- Contract renewals for water supply.
- Vegetation management outside streams including manual removal and herbicide application.
- Operations and maintenance of pump stations, operations yards, utility yards, and corporation yards including storing sediment, truck access, and herbicides⁶.
- New groundwater recharge sites and associated facilities in Coyote Valley and/or South Valley outside streams.
- A new service yard and facility for SCVWD to conduct gravel augmentation (sort spawning gravels from sediment removed during maintenance for replacement into the spawning reaches).

⁶ Note that herbicide application cannot currently be covered by the USFWS permit due to policy differences between EPA and USFWS regarding the licensing of pesticides. Herbicide application will be covered by the state NCCP permit and the NMFS Section 10 permit.

- Maintenance of water supply facilities including buildings, gauges, pipelines, and turnouts outside streams.
- Maintenance of off-stream percolation ponds. Activities may include removal of sediment and maintenance of associated roads, diversion structures, and catwalks.

Pipeline Maintenance Program

[Note to Reader: The SCVWD Pipeline Maintenance Program Environmental Impact Report/Environmental Assessment has not been finalized.]

SCVWD owns and/or maintains several pipelines and pipeline facilities throughout the study area. To address maintenance for these pipelines, SCVWD developed the Pipeline Maintenance Program to establish a process for conducting routine water-conveyance-system maintenance activities within its jurisdiction. Pipeline maintenance activities also occur off-stream within urban areas, however, those activities are expected to have much less impact on covered species within urban settings. Additionally, all types of urban operations and maintenance programs are addressed in the urban development category. Facilities owned and/or operated include the following pipelines and components.

- Pacheco Conduit
- Pacheco Tunnel
- Santa Clara Conduit
- Santa Clara Tunnel
- Almaden Valley Pipeline
- Anderson Force Main
- Calero Pipeline
- Central Pipeline
- Cross Valley Pipeline
- Gilroy Reclamation Line
- Santa Teresa Force Main
- East Pipeline Milpitas Pipeline (*verify this is in study area*)
- Parallel East pipeline
- Penitencia Force Main
- Snell Pipeline

The Pipeline Maintenance Program defines a comprehensive approach to managing the environmental impact of maintenance. The Pipeline Maintenance

Program specifies protocols for management and maintenance crews from different divisions working on the same activity to conduct the operations, including the environmental commitments, associated with that work.

In developing the Pipeline Maintenance Program, it was the SCVWD's intent that the program and mitigation defined in the Pipeline Maintenance Program serve as the basis for state and federal permits and permit conditions; therefore, regulatory agencies were consulted early in the Pipeline Maintenance Program definition process.

The routine maintenance activities described in the Pipeline Maintenance Program address both raw and treated water pipelines. Over 125 miles of pipeline support water delivery in the County. The SCVWD anticipates the following activities may require coverage under this Plan.

- Cathodic protection and monitoring.
- Leak repair (may require blow-off, dewatering of pipes).
- Internal inspection (may require blow-off, dewatering of pipes).
- Rehabilitation and/or replacement of pipeline components including, but not limited to, air release valves, piping connections, joints, and appurtenances.
- Replacement/repair of buried service valves (including valves within creek embankments).
- Maintenance of pipeline turnouts.
- Replacement/repair of appurtenances, fittings, manholes, and meters.
- Vault maintenance.
- Telemetry Cable/system inspections and repairs.
- Meter Inspections and repairs.
- Maintenance of pump stations, operation yards, utility yards, and corporation yards.
- Access road repairs.

This is the general list of activities that are necessary to maintain proper function of all pipelines within the SCVWD system. Each of these activities includes additional subtasks, which are the individual steps involved in completing the overall activity. Activities outlined in the Pipeline Maintenance Program that fall within the study area may receive coverage under this Plan.

County of Santa Clara

County of Santa Clara rural operations and maintenance activities outside of streams that may receive coverage under this Plan include the following.

- Improvement and maintenance of federal and state highways, and county roads including culvert replacement or upgrades.
- Operation, maintenance, and management of County parks.
- Vegetation management for exotic species removal and native vegetation plantings.
- Trail maintenance including grading, clearing, brushing, erosion control, paving, re-paving, abandonment, and restoration.
- Rodent and pest abatement including removal of dead and dying wood, trees, and vegetation on abandoned fields and in orchards.
- Activities associated with the maintenance of large facilities including golf courses, large event facilities, and sports complexes.
- Equestrian facilities and uses including equestrian centers, trails, manure management, and grazing activities.
- Remediation for mines and quarries, spills, illegal dumping, fuel/chemical storage, and firing ranges.

Other Covered Activities

Other rural operations and maintenance activities outside of streams that are not specific to a single Permittee that may receive coverage under this Plan include the following.

- Utility line or facility operation and maintenance (except for PG&E, which is preparing its own HCP for operations and maintenance; see Section 2.4 below).
- Mitigation projects adjacent to riparian corridors and wetlands.
- Vegetation management including fuel reduction using prescribed burns, grazing activities, exotic vegetation control/removal, hazardous tree work, abatement of hazardous vegetation, and algae control in ponds.
- Activities associated with the maintenance of small facilities including turf management, small structures, paving, and landscaping.
- Maintenance of infrastructure facilities including buildings, roads, utilities (septic, water, power systems), and stormwater treatment.

2.3.6 Plan Implementation

In addition to the projects described above, the Plan will provide take authorization for projects and activities associated with implementation of the Plan. These activities will take place within the preserve system assembled by the Plan.

Management Activities

This category includes all management actions required by the Plan or other actions that might be necessary to achieve Plan biological goals and objectives. This category includes the construction and maintenance of recreational facilities such as trails, parking lots, restrooms, wildlife observation platforms, and educational kiosks that are built and/or used in accordance with the guidelines in this Plan. This category also includes construction, maintenance, and use of facilities needed to manage the preserves, including but not limited to preserve field offices, maintenance sheds, carpools, roads, bridges, fences, gates, wells, stock tanks, and stock ponds. All preserve management structures will be constructed to minimize impacts on covered species and vegetation communities. Facilities existing at the time of land acquisition will be used whenever possible if feasible.

Management actions that will be used within the preserve system are described in detail in Chapter 5, *Conservation Strategy*. These actions may include but are not limited to the activities listed below. Many of these activities overlap.

- Vegetation management using livestock grazing, manual labor, and/or prescribed burning. Herbicide use is permitted under the Plan only to achieve biological goals and objectives (e.g., exotic plant control), in accordance with label instructions, and in compliance with state and local laws. Pesticide use is proposed for coverage only under the NCCP Act, not the ESA.
- Development of new trails and related park facilities such as staging areas, restrooms, and parking lots.
- Relocation of covered species from impact sites and within preserves where impacts are unavoidable and relocation has a high likelihood of success (e.g., removal of Red-Legged Frog larvae). This is expected to occur in very limited circumstances. See Chapter 5 for details.
- Demolition or removal of structures or roads to increase public safety or to restore habitat.
- Control of introduced predators (e.g., feral cats and dogs, pigs, red fox, nonnative fish, bullfrogs).
- Stream maintenance for habitat.
- Restoration and habitat enhancement, including in streams.
- Surveys and monitoring for mitigation and restoration/habitat enhancement projects.
- Travel through the preserve on foot, horseback, mountain bicycle, all-terrain vehicle, truck, or other off-road vehicle to inspect or maintain facilities, move or manage livestock, and patrol trails.

- Fire management including prescribed burning, mowing, and fuel-break establishment.
- Hazardous materials remediation.
- Repair of existing facilities damaged by floods or fire.
- Operations related to water delivery.
- Demolition or removal of structures or roads to increase public safety or to restore habitat.
- Spawning gravel augmentation in the upper watershed.
- Implementation of SCVWD's Enhancement Program including development of trails, vegetation management, in-stream fish habitat enhancement, fish-barrier removal, recreation enhancement, creek realignment (to a more natural state), and construction of in-stream turtle structures.

[Note to Reader: Additional management activities will be added to this list once the draft conservation strategy has been developed.]

Recreation

Limited recreational use of Plan preserves is permitted under the guidelines of this Plan (see Chapter 5 for details). Any incidental take of covered species resulting from public use of trails and parking lots within the study area, inside or outside of the designated preserve system, is covered under the permits provided that usage is consistent with the guidelines in this Plan. The permits do not cover off-trail recreational activities nor any type of activity prohibited by this Plan.

Habitat Enhancement, Restoration, and Creation

The Plan conservation strategy (see Chapter 5) sets forth requirements for habitat enhancement, restoration, and creation. Enhancement activities generally fall under the preserve management category. Habitat restoration and creation will generally be disruptive only in the short term because these activities may involve soil disturbance, removal of undesirable plants, and limited grading. All habitat restoration and creation is expected to result in a net long-term benefit for covered species and natural communities. However, these activities may have temporary or short-term adverse effects and may result in limited take of covered species (see Chapter 4, *Impact Analysis*). All habitat enhancement, restoration, and creation activities conducted within Plan preserves that are consistent with the requirements of this Plan are covered by the permits. Habitat restoration activities may be conducted outside Plan preserves (see Chapter 5, *Conservation Strategy*). If such activities occur and are consistent with this Plan, they are covered by the permits.

Species Surveys, Monitoring, and Research

Biologists will need to conduct surveys for covered species, natural communities, and other resources within the Plan preserves on a regular basis for monitoring, research, and adaptive management purposes. These surveys may require physical capture and inspection of specimens to determine identity, mark individuals, or measure physical features, all of which may be considered take under ESA and CESA. Surveys for covered species will also be conducted on private land being considered for acquisition for the Plan. Although these surveys are not expected to require as much handling of individuals, take may still occur. Surveys for all covered species will be conducted by qualified biologists. All such survey activity consistent with this Plan is covered by the ESA and NCCP permits.

Research conducted by biologists on Plan lands in support of the Plan is covered by the permits as long as the research projects have negligible effects on populations of covered species. Research on Plan land unrelated to the Plan is not covered by the permits because the nature and impacts of these future research projects cannot be predicted at this time and these researchers will not be bound by the terms of the permits.

Emergency Activities

Emergency activities within Plan lands that have negligible impacts on populations of covered species are covered under this Plan. Foreseeable emergency activities include, but are not limited to, the following.

- Firefighting.
- Evacuation of injured persons or livestock.
- Hazardous materials remediation (including remediation and cleanup of spills or illegal dumping prior to acquisition).
- Repair of existing facilities damaged by floods or fire.

Emergency activities that have substantial effects on covered species (e.g., firefighting for a large wildfire, repair after a major flood) are considered changed circumstances and are described in Chapter 10, *Assurances and Changed Circumstances*.

Utility Construction and Maintenance

Public and private utility infrastructure such as electric transmission lines, gas pipelines, petroleum pipelines, telecommunications lines, or cellular telephone stations may cross or need to cross Plan lands. Construction of new utilities in Plan lands is a covered activity only when there is no other practicable alternative

to siting the utility within the Plan parcel. Coverage for these projects will be decided on a case-by-case basis. This will allow alternative siting or redesign, if possible, to avoid or minimize impacts on covered species and natural communities. Routine and emergency maintenance and repair of existing utilities within Plan lands is also covered by the Plan, as described above.

Neighboring Landowners Protection Program

[Note to Reader: The details of this program are still being developed. Any additional impacts associated with it must be covered, so it is summarized here before the details are final. This summary will be revisited once the details are worked out.]

The implementation of conservation measures described in Chapter 5, *Conservation Strategy*, may increase populations of covered species within Plan lands. As a result, some individuals may disperse to neighboring private lands where the presence of listed species could interfere with routine agricultural activities. Protections for neighboring landowners are described in Chapter 10, *Assurances and Changed Circumstances*; the methods for establishing and estimating take are described in Chapter 4, *Impact Analysis*. With certain provisions and restrictions, agricultural lands within **XX** mile [*to be determined*] of the preserve boundary are eligible for take coverage during the course of routine agricultural activities, during the permit term, and for take beyond the baseline condition that existed prior to the establishment of the neighboring Plan land. For definitions and details of this program, see Chapter 10.

2.4 Projects and Activities Not Covered by this Plan

As described above, this Plan strives to cover all projects and activities for which the Local Partners envision the need for incidental take coverage over the 50-year permit term. However, certain projects and activities that may occur in the study area over the permit term are not appropriate for coverage under this Plan due to a variety of factors including, but not limited to, lack of information, speculative nature of the project, existing permits, obtaining permits under a separate program, or the risk that the project or activity is incompatible with the Plan conservation strategy. The projects and activities listed below were considered, but rejected for coverage under this Plan.

- **Bay Area To Central Valley High-Speed Train.** The Federal Railroad Administration and the California High Speed Rail Authority are currently planning the San Francisco Bay Area to Central Valley portion of the California High-Speed Train System (70 Federal Register [FR] 71370-71372). Two possible alignments for the High-Speed Train System traverse the Plan study area. It is possible that portions of, or all, of this alignment

could be constructed during the permit term. In such a case, this project would not be covered under this Plan.

- **New Highway between I-5 and U.S. 101.** The Metropolitan Transportation Commission’s 2025 Regional Transportation Plan lists a “limited-access 4-lane facility and partial new alignment between I-5 and U.S. 101 (possible toll road)” (Metropolitan Transportation Commission 2005). The Regional Transportation Plan does not discuss this project in any detail but provides a preliminary budget of \$432 million. Should this project be pursued during the life of the Plan permit, it would not be covered under the Plan.
- **Routine and On-Going Agricultural Activities.** Routine agricultural activities such as land clearing, planting, harvesting, and pesticide application are not covered by the Plan. These are activities that do not typically require take coverage, and the Wildlife Agencies currently do not currently issue permits for these types of activities. Individuals in the Stakeholder Group representing agricultural interests have concurred with this exclusion because of a lack of need for such permits.

Intensive agricultural activities such as cut flower nurseries, Christmas tree farms, ornamental plant nurseries, dairies, and feedlots, are not considered routine agricultural activities and are covered by this Plan.

- **Commercial Vineyard Expansion.** While growth of commercial vineyards in Santa Clara County is relatively low, impacts from vineyards, including sediment runoff to streams and reductions in groundwater used for irrigation, may be significant. Permitting this activity will continue to be considered on a project-by-project basis and will not be covered by this Plan.
- **Timber Harvest Operations.** In 2004, only 67,000 board feet of timber were harvested in Santa Clara County, down by 40% from 2003 (Department of Agriculture 2005). Most of this harvest likely occurs outside the study area on private lands in the Santa Cruz Mountains. Because this activity is so uncommon in the study area and it is generally not under the jurisdiction of any of the Permittees, it will not be covered by the Plan.
- **Mercury Removal/Remediation.** Due to past land use and mineral extraction, mercury is a contaminant of concern for several parks, reservoirs, and streams within the study area, including Almaden Quicksilver County Park, Calero Reservoir, Almaden Reservoir, Guadalupe Reservoir, Guadalupe Creek, Guadalupe River, and Coyote Creek. Because the extent of mercury pollution is still largely unknown, and because mercury remediation plans and implementation of plans will undoubtedly be highly complex, mercury removal /remediation activities and projects will not be covered by this Plan except where specifically noted in this chapter.
- **Kirby Canyon Landfill Expansion.** The Kirby Canyon Landfill is a 760-acre site located in south San José owned and operated by Waste Management, Inc. A habitat conservation plan was developed by Waste Management in 1985, prior to the listing of the Bay checkerspot butterfly, to mitigate for landfill development, operations, maintenance, and closure activities associated with the property. A Section 10(a)(1)(B) permit issued

in **XXX** [information forthcoming] replaced an Army Corps of Engineers (Corps) Section 7 consultation conducted for the California Red-Legged Frog. The site contains both breeding and upland habitat for this species, as well as serpentine grassland habitats that support the federally-listed Bay checkerspot butterfly and some other associated rare plants. Mitigation includes establishment of new breeding habitat for the frog, restored upland serpentine habitat for the frog, butterfly, and rare plants, and funding to provide long-term monitoring and adaptive management of permanent habitat easements (Waste Management of California, Inc. 1985). Because landfill operations and expansion is covered under existing permits, it will not be addressed by this Plan.

[Note to USFWS: We need to confirm the existing take authorization for the Kirby Landfill. No 10(a)(1)(B) permits are listed on the FWS database. Is take authorization for Bay checkerspot butterfly provided by Section 7 consultations? If so, how is the 1985 HCP connected with this?]

- **PG&E Operations & Maintenance.** Pacific Gas and Electric Company (PG&E) initiated a habitat conservation plan in 2003 for operation and maintenance activities at PG&E facilities in the San Francisco Bay Area (Bay Area), including within all of Santa Clara County. PG&E intends to apply to the USFWS and CDFG for permits that authorize the incidental take of mostly listed species. This HCP will enable PG&E to continue current and future operations, maintenance, and minor new construction activities in the Bay Area while minimizing, avoiding, and compensating for direct, indirect, and cumulative effects on threatened and endangered species that could result from such activities.

Because PG&E's operations and maintenance activities will be covered by their own endangered species permits, their activities will not be covered by this Plan.

- **SCVWD Stream Maintenance Program Activities.** As described above, the Stream Maintenance Program activities will be covered by their own endangered species permits, and, therefore, will not be covered by this Plan.
- **Fish and Aquatic Habitat Collaborative Effort (FAHCE) HCP Activities.** As described above, the FAHCE activities will obtain federal take authorization through their own HCP being prepared by the SCVWD. This Plan will cover the FAHCE activities, but only for the NCCP permit.