

SANTA CLARA VALLEY HABITAT PLAN MAJOR AMENDMENT FALL 2023

BACKGROUND

On January 20, 2022, the Santa Clara Valley Habitat Agency Implementation Board authorized the Executive Officer to enter into a consultant service agreement with ICF to prepare a major amendment to the Habitat Plan. The requested and anticipated changes to the Habitat Plan were described in a January 2022 staff report to the Implementation Board. Two approved U.S. Fish and Wildlife Service (USFWS) Endangered Species Act Section 6 grants were approved and administered through the California Department of Fish and Wildlife (CDFW) to fund this effort, which is needed to address several issues and challenges that have developed since the Plan was adopted in 2013. A consultant services agreement with ICF was finalized in April 2022, and since that time ICF, in coordination with the Habitat Agency's Technical Advisory Committee (TAC), has been developing and refining a list of proposed changes to the Habitat Plan. The TAC consists of members of the Co-Permittee agencies, Habitat Agency staff, Wildlife Agency representatives and consulting biologists and ecologists. Regular updates on the proposed Amendment will be shared with the Implementation Board in the interest of ensuring that all Co-Permittees are engaged in this process.

PROPOSED AMENDMENT:

The proposed Plan Amendment will be relatively far reaching, with changes expected in most or all chapters of the Plan. One of the drivers of the Amendment is the need to expand the list of covered species to add species that are not currently included in the Plan. In total, 44 new plant and wildlife species were considered and evaluated for inclusion. Ultimately, most of them were dropped from consideration based on low potential to be affected by covered activities, their current and foreseeable listing status, their occurrence in the study area, and the adequacy of data for the species. The final list of proposed new covered species is found below. Many other changes related to expanding the Plan area boundary, expanding covered activities and changes to the Conservation Strategy are important, as is the need to revisit existing take limits for certain covered species, incorporation of past interpretations and modifications of the Plan and actions considered for streamlining the reporting requirements of the Plan, among other things.

While exhaustive, the changes can be summarized as follows:

- Add one new co-permittee agency, the San Jose Water Company.
- Add Valley Water and San Jose Water Company Stream Maintenance Programs (SMP) as covered activities.
- Expand the Plan Area boundary to the northwest to provide coverage for SMP's and potentially other public projects being conducted by the Co-Permittees on land they own.
- Expand the Plan Area boundary to the northeast for conservation only, allowing for the enrollment of land into the Reserve System.

- Eliminate the Private Development Areas Map to expand coverage to all private development projects occurring on parcels over 0.5-acre in size.
- Consider allowing conservation actions outside the Plan and County boundaries to contribute to the Conservation Strategy Goals and Objectives where they provide regional covered species' benefits.
- Add the California Vegetation Treatment Plan (CalVTP) components as covered activities.
- Explore instances where vegetation management may be considered a beneficial action.
- Add new species for coverage, including:
 - Crotch's bumblebee
 - Western monarch butterfly
 - Swainson's hawk
 - Central coast mountain lion
 - American badger
 - Loggerhead shrike
 - Hall's bushmallow
 - Woodland woollythreads
- Revisions associated with past Plan Clarifications and Interpretations.
- Reconsider status of the Burrowing Owl Conservation Strategy and amend the strategy as applicable or appropriate.
- Consider tracking land cover impacts at the natural community level as opposed to specific land cover types identified in the Plan.
- Consider revising how land cover impacts are tracked to be consistent with more recent regional HCP/NCCPs, to allow more flexibility in take limits for less sensitive land cover types, and to reduce application and reporting levels of effort.
- Do an overall review of impacts accrued to date for land cover and modeled habitat impacts and consider if revisions are needed.
- Add critical habitat analysis for foothill yellow legged frog, western pond turtle, and any other species for which critical habitat is established while the Habitat Plan amendment is under way.
- Consider allowing targeted conservation actions outside the Reserve System for bees, butterflies, and Swainson's hawk habitat.
- Revisit the requirement for a conservation easement as the only mechanism to protect land owned by the Habitat Agency.
- Seek restoration credit for passive actions such as fencing to restrict cattle or pigs from sensitive habitats.
- Add best new management practices for phytophthora and chytrid.

- Remove smooth lessingia survey requirements (due to successful protection of the species by the Habitat Agency).
- Update Condition 11 related to stream setback exceptions for development.
- Consider adding bird-safe designs as avoidance measures (may be unenforceable by the Agency).
- Develop a more efficient approach for tracking and reporting on very small maintenance projects.

During the amendment process, the Plan would incorporate administrative changes to language and policies intended to clarify several issues that have caused confusion or complicated Plan implementation in the first ten years of existence. The anticipated outcome of the amended Plan is to have a mutually agreed upon revised Plan that will not exceed its take limits over time, will not impact species for which take is not authorized, and will facilitate infrastructure development and conservation in the portions of Santa Clara County outside the boundaries of the current plan area. Once the Administrative Draft is finalized, it will be analyzed for effects as defined under NEPA and CEQA.

HABITAT PLAN AMENDMENT SCHEDULE:

	2022				2023				2024				2025	
	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2
Confirm Proposed Amendments to the Plan	■	■	■	■										
Complete Admin Draft of the Amended Santa Clara Valley HCP/NCCP			■	■	■	■	■	■						
Public Draft of the Amended Santa Clara Valley HCP/NCCP									■	■	■			
Complete Admin Draft NEPA/CEQA Document						■	■	■	■	■				
Public Draft NEPA/CEQA Document and Public Review										■	■	■		
Prepare Final Amended Santa Clara Valley HCP/NCCP and NEPA/CEQA													■	■

ROLE OF THE IMPLEMENTATION BOARD:

Throughout the Plan Amendment process, Habitat Agency staff will be requesting input from the Implementation Board to ensure the interests of all Co-Permittees are being met. The regularly scheduled Implementation Board meetings will perform an important function for public discussion and decision-making. In addition to facilitating discourse regarding changes being contemplated through the Amendment, the Implementation Board meetings will also provide a place for public comments and scoping meetings for the California Environmental Quality Act and National Environmental Policy Act (CEQA/NEPA) documentation. CEQA/NEPA guidelines require public notification and engagement, and the Implementation Board meetings can provide the public venue necessary. The Implementation Board will also be the entity responsible for

submitting the Habitat Plan Amendment to the Wildlife Agencies (USFWS and CDFW) for their review and approval. For the next two years, Plan Amendment presentations and requests will be made at upcoming Implementation Board meetings and the Habitat Agency looks forward to utilizing this forum in a way that makes the best use of an existing public board.

ROLE OF THE PUBLIC ADVISORY COMMITTEE:

The Santa Clara Valley Habitat Agency Public Advisory Committee (PAC) will also play an important role in facilitating completion and approval of the Plan Amendment. As a public venue established to provide a direct public interface with the Habitat Agency, it provides a unique opportunity for public engagement throughout the entire process. As with the Implementation Board, regular updates on the Plan Amendment will be presented to the PAC. Habitat Agency staff may at times request a recommendation from the PAC to the Implementation Board regarding certain Plan Amendment elements that are critical. Staff may also request a final complete recommendation from the PAC to the Implementation Board on the entire Plan Amendment when appropriate. Public engagement is encouraged at both the Implementation Board and PAC meetings, which are posted on our website: <https://www.scv-habitatagency.org/AgendaCenter>