



## Santa Clara Valley Habitat Agency

# Multi-phase Project Burrowing Owl Fee Policy

### 1. PURPOSE

The western burrowing owl (*Athene cunicularia hypugaea*) is a Santa Clara Valley Habitat Plan (Habitat Plan) covered species, and covered projects that could affect this species are subject to the rules, regulations, and policies of the Habitat Plan. The Santa Clara Valley Habitat Agency (Habitat Agency) is charged with implementing federal and state endangered species laws and Habitat Plan conservation actions to ensure the persistence and recovery of all covered species in the Habitat Plan permit area. For the western burrowing owl, the Habitat Agency is committed to reversing the decline of this population in Santa Clara County and has established the burrowing owl fee to protect burrowing owl habitat and to fund conservation actions. All public and private covered projects within the Burrowing Owl Fee Zone will be subject to this fee. The boundaries of the Burrowing Owl Fee Zone are updated annually to reflect changes in nesting habitat within the Habitat Plan area. This policy clarifies how the burrowing owl fee will apply to multi-phase projects with one or more phases which occur in the Burrowing Owl Fee Zone.

### 2. SCOPE

This policy applies to public and private multi-phase projects that are subject to the burrowing owl fee. A project is subject to the fee if it occurs in the Burrowing Owl Fee Zone.

### 3. POLICY

A multi-phase project may have one or more phases within the Burrowing Owl Fee Zone. When seeking coverage, a project proponent is required to document which phases will be located within the Burrowing Owl Fee Zone. The Habitat Agency, or permitting Co-Permittee, then establishes a fee schedule for the project based upon the following requirements:

- Each project phase within the Burrowing Owl Fee Zone—as defined at the time of application for coverage—is subject to the fee.
- The fee must be paid when the project phase is executed.

However, because the Burrowing Owl Fee Zone boundary may change depending on annual survey results, it is not possible to forecast whether future project phases will necessarily occur in the Burrowing Owl Fee Zone once those phases are initiated. For this reason, an additional requirement also applies:

- At the time of execution, any project phase that is currently within or has ever been within the Burrowing Owl Fee Zone is subject to the fee.

The above requirement must be enforced because activities associated with earlier project phases may cause owls to vacate sites of future phases; accordingly, levying fees on project phases occurring in past and present Burrowing Owl Fee Zones more fairly compensates for impacts on burrowing owl habitat.

#### **4. DEFINITIONS**

**Term:** Burrowing Owl Fee Zone

**Definition:** The Burrowing Owl Fee Zone is determined by annual survey efforts that map the extent of nesting habitat occupied by western burrowing owls. Occupied nesting habitat is defined as a nesting site identified within the past 3 years plus 0.5 mile of foraging habitat surrounding the site.

**Term:** burrowing owl fee

**Definition:** If a covered project occurs in the Burrowing Owl Fee Zone, a burrowing owl fee will be paid by the project applicant. This fee will be in addition to the land cover fee. The burrowing owl fee is charged on the area on which land cover fees are levied.

#### **5. REFERENCE**

Executive Office Directive No. 5—May 26, 2015