



Santa Clara Valley Habitat Plan

CLARIFICATION AND INTERPRETATION

Subject	Measuring Rough Proportionality
Clarification Number	2013-018
Approved	Edmund Sullivan 
Effective Date	6/24/15
Revision Date <i>(If applicable)</i>	

Category

Stay-Ahead Provision

Topic

Measuring Rough Proportionality

Issue/Question/Problem Statement

How is rough proportionality measured for permit compliance?

Plan Guidance

As required by the Natural Community Conservation Planning (NCCP) Act, the Santa Clara Valley Habitat Plan (Habitat Plan, or Plan) must maintain “rough proportionality” between its impacts and conservation.¹ The rough proportionality standard of the NCCP Act states that “...implementation of mitigation and conservation measures on a plan basis is roughly proportional in time and extent to the impact on habitat or covered species authorized under the plan.” In simple terms, this means

¹ California Fish and Game Code Section 2820(b)(3)(B).

that conservation must stay ahead of impacts. The plan defines a “stay-ahead” provision to ensure that the rough proportionality standard is met for each annual reporting period.

In Section 8.6.1, the Plan describes the stay-ahead provision as measured by the aggregate of land cover types into natural communities (see attached Table 3-1). For the first 40 years of the Plan, impacts on natural communities will be tracked by each land cover type, but compliance with rough proportionality will be measured by each natural community, or group of land cover types. For example, the Habitat Agency will measure compliance with the rough proportionality standard for impacts on and conservation of oak woodland by all of the oak woodland land cover types combined, not separately (i.e., by the oak woodland natural community, not by each oak woodland land cover type). At year 40, all restoration requirements must be met by land cover type. At year 45, all land acquisition targets must be met, also measured by land cover type.²

Section 9.4 of the Implementing Agreement describes the same stay-ahead provision as found in Section 8.6.1 of the Plan, but the Implementing Agreement never mentions natural communities being the unit of measure for compliance purposes. The Implementing Agreement cites an example that implies that land cover is the metric to be used for measuring compliance with the rough proportionality standard (the same example is used in the Plan but in a different context). However, the last sentence of Section 9.4 of the Implementing Agreement says that “The Implementing Entity will measure and report on rough proportionality as described in Chapter 8.6.1 [of the Plan].” Given this last sentence, the Habitat Agency considers the Implementing Agreement consistent with the Plan.

Determination/Justification

The conclusion of Section 9.4 of the Implementing Agreement defers to the Plan for the measurement and reporting requirements of rough proportionality, as described in Section 8.6.1 of the Plan. The Habitat Agency maintains that the Implementing Agreement applies the same standard of measurement of rough proportionality as the Plan. Rough proportionality will be measured for the purposes of annual compliance by natural community, not land cover type. As stated in the Plan (page 8-26), the amount of each natural community conserved, restored, or created must be equal to or greater than the impact on the natural community as a proportion of the total impact expected from all covered activities. Furthermore, rough proportionality will be measured by this method for the first time after two years of Plan implementation. At year 40, all restoration requirements must be met by land cover type. At year 45, all land acquisition targets must be met by natural community type.

The California Department of Fish and Wildlife (CDFW) brought this issue to the attention of ICF International and the Habitat Agency. The CDFW concurs with this Plan Clarification.

Attachment: Habitat Plan Table 3-1

² See Tables 5-11 and 5-12 for the requirements. From years 40 through 45, compliance with the stay-ahead provision for impacts on non-wetland (i.e., terrestrial) land cover types will be measured by natural community.

Table 3-1. Natural Community Classification and Land Cover Types

Natural Community	Land Cover Type	Sensitive Land Cover Type*
Grassland	California annual grassland	
	Non-serpentine native grassland (not mapped)	✓
	Serpentine bunchgrass grassland	✓
	Serpentine rock outcrop	✓
	Serpentine seep	✓
	Rock outcrop	
Chaparral and Northern Coastal Scrub	Northern mixed chaparral/chamise chaparral	
	Mixed serpentine chaparral	✓
	Northern coastal scrub/Diablan sage scrub	
	Coyote brush scrub	
Oak Woodland	Valley oak woodland	✓
	Mixed oak woodland and forest	
	Blue oak woodland	
	Coast live oak forest and woodland	
	Foothill pine—oak woodland	
	Mixed evergreen forest	
	Riparian Forest and Scrub	Willow riparian forest and scrub
Central California sycamore alluvial woodland		✓
Mixed riparian forest and woodland		
Riverine (also called streams)		
Conifer Woodland	Redwood forest	
	Ponderosa pine woodland	
	Knobcone pine woodland	
Wetland	Coastal and valley freshwater marsh	✓
	Seasonal wetland	✓
Open Water (Aquatic)	Pond	
	Reservoir	
Agriculture	Orchard	
	Vineyard	
	Agriculture developed	
	Grain, row-crop, hay and pasture, disked/short-term fallowed	
Developed	Urban-Suburban	
	Rural residential (< 1 unit per 2.5 acres)	
	Golf courses/urban parks	
	Landfill	
	Ornamental woodland	
	Barren	

* Equivalent to sensitive natural communities, as defined by the California Department of Fish and Game (California Department of Fish and Game 2003a).