



# Santa Clara Valley Habitat Plan

## CLARIFICATION AND INTERPRETATION

<b>Subject</b>	<b>Coverage for Projects that Occur Partially Outside of the Permit Area</b>
<b>Clarification Number</b>	2014-005
<b>Approved</b>	Edmund Sullivan 
<b>Effective Date</b>	6/24/15
<b>Revision Date</b> <i>(If applicable)</i>	

### Category

“Covered Project” determination

### Topic

Projects spanning permit area boundary

### Issue/Question/Problem Statement

May projects that occur partially outside the permit area be covered by the Plan in their entirety?

### Plan Guidance

The permit area of the Habitat Plan is described in Chapter 1, Section 1.2.2, *Geographic Scope*, starting on page 1-7, and constitutes those lands within the Study Area and Expanded Study Area for Burrowing Owl Conservation on which covered activities may occur. Interpretation memo 2014-004 describes the process for rectifying any differences between how the permit area is defined in the text of the Plan and in the Plan’s GIS.

The Habitat Plan program goals stated in Chapter 1 (starting on page 1-1) include the following regulatory compliance goals:

- “Provide a comprehensive, coordinated, and standardized mitigation and compensation plan such that regulations on public and private actions will be applied equally and consistently, reducing delays, expenses, and regulatory duplication.
- Streamline the endangered species permitting process for the covered activities.” (page 1-2)

In addition, the Habitat Plan states, on page 1-9, “(t)he permit area also includes small, unmapped areas. Land management and monitoring activities may occur outside the mapped study area where a conservation parcel straddles the mapped permit area as long as more than half of each parcel is contained within the permit area. These unmapped areas will not exceed a total of 250 acres.”

## Determination/Justification

It is a goal of the Habitat Plan to provide streamlined regulatory compliance for endangered species.

Projects that lie partially outside the permit area may be covered in their entirety if they meet the following criteria:

- 1) The projects fall within the description of Covered Activities in Chapter 2, *Covered Activities*, of the Habitat Plan;
- 2) At least 95% of the direct impacts of the projects will occur within the permit area; and
- 3) Extending Habitat Plan coverage to the entire project site:
  - a) Is consistent with the impact analysis for the Habitat Plan, its Biological Opinion, and EIR/EIS, and
  - b) The impacts of the proposed activity outside the permit area do not deplete the amount of remaining take coverage (i.e., not enough take coverage is available for future covered activities).

The Co-Permittee with authority over the activity will make the final decision regarding whether to cover the project, provided the criteria described above are met. The Co-Permittee may seek guidance from the Habitat Agency and/or the Wildlife Agencies. Any projects covered in this manner will be tracked the same way as all activities covered by the Habitat Plan. In addition, the portion of impact acreage occurring outside the permit area will be reported in the annual report. The total acreage covered in this manner must not exceed 250 acres.