



Santa Clara Valley Habitat Plan

CLARIFICATION AND INTERPRETATION

Subject	Trails and Ranch Road – Application of Temporary or Permanent Fees
Clarification Number	[Click and type clarification number]
Approved	Edmund Sullivan 
Effective Date	6/24/15
Revision Date <i>(If applicable)</i>	

Category

Fees

Topic

Ranch Road and Trails. Application of temporary or permanent fees where topography changes for slopes (cut-and-fill slopes returned to pre-project conditions, existing road/trail width increased and substrate changed, widening of road/trail).

Issue/Question/Problem Statement

Application of Temporary or Permanent Fees to Areas Where Topography Changes (“fill slopes”). The scope of projects varies; therefore, the designation of permanent or temporary fees is not clearly defined. The intensity of topographic change should be considered before determining fees. In most cases, the fees applied would be temporary because the road/trail is being returned to its original condition; however, there may be cases where the scope of impact and change in topography will result in a permanent fee application.

Plan Guidance

- Chapter 2, page 2-92. “Capital improvements to existing trail systems, including reconstruction, realignment, and, in areas where the use is compatible, the addition of separate single-use trails.”
- Chapter 2, page 2-112. “Private sector activities that do not obtain a development, grading, building, or other construction permit. Construction permits involve land disturbance for the purpose of making land improvements, such as the construction of buildings, roads, and driveways. Activities that do not obtain these development permits are not covered by the Plan.”
- Chapter 9, page 9-24. “Public and private covered activities are subject to the land cover fee for permanent impact on any land cover types besides urban-suburban, landfill, reservoir, or agricultural developed.”
- Chapter 9, page 9-37. “The applicant may pay the full land cover and retain the ability to disturb the area repeatedly during the permit term. Temporary impacts that occur in the same location repeatedly during the permit term and that pay the full land cover fee will be counted and tracked as a permanent impact. Temporary impact fees paid on a site can be credited towards any permanent fees that may be required on the same site in the future.”
- Chapter 9, page 9-38. “To reduce administrative costs, temporary impact fees will not be assessed on any covered project with impacts of less than 0.25 acre, except wetlands, ponds, riparian woodlands, streams, or serpentine.”
- Chapter 9, page 9-40. “The Implementing Entity, in consultation with the project proponent and the Wildlife Agencies, will determine an appropriate project impact area subject to the temporary impact fee. These types of activities may have both temporary and permanent effects (i.e., trenching through a wetland complex that permanently alters site hydrology would be considered a permanent impact). In these cases, the temporary impact fee along with other fees described in this chapter could be assessed.”

Determination/Justification

Based on Plan guidance, the designation of temporary or permanent fees is determined by the scope of the impact. In most cases, the fees applied would be temporary because the road/trail is being returned to its original condition; however, there may be cases when the scope of impact and resulting change in topography would result in permanent fee application.

If cut-and-fill sites are returned to pre-project conditions, four (4) options for determination of fee applications are possible:

1. Temporary fees are applied if topography, “footprint,” or use of the road/trail remains within the pre-project condition.
2. No temporary impact fees will be applied if temporary impacts are less than 0.25 acre, except wetlands, ponds, riparian woodlands, streams, or serpentine.

3. Permanent fees are applied if there is a change in topography, “footprint,” or use of the road/trail.
4. For private sector projects, activities that do not obtain development permits (i.e., development, grading, building, or other construction permits that involve land disturbance for the purpose of making land improvements, such as the construction of buildings, roads, and driveways) are not covered by the Plan.