



SANTA CLARA VALLEY
HABITAT AGENCY

December 13, 2017

Ron Unger
Landscape Conservation Planning Program Manager
California Department of Fish and Wildlife
1416 9th Street, 12th Floor
Sacramento, CA 95814

RE: Santa Clara County Regional Conservation Investment Strategy Consistency with the Valley Habitat Plan

Dear Mr. Unger:

I am writing to provide the Santa Clara Valley Habitat Agency's (Habitat Agency) support for the draft Santa Clara County Regional Conservation Investment Strategy (SCCRCIS) submitted to your agency by the Santa Clara Valley Open Space Authority (OSA). The Habitat Agency implements the Santa Clara Valley Habitat Plan (Habitat Plan), an approved Habitat Conservation Plan (HCP) and Natural Community Conservation Plan (NCCP; ICF 2012). We participated in the development of the SCCRCIS over the past 22 months as a member of the steering committee and reviewed the draft SCCRCIS and determined that it is consistent with and complements the Habitat Plan. The draft SCCRCIS includes provisions ensuring that the RCIS's goals, objectives, and actions will not preclude the Habitat Plan from achieving its goals, objectives, and actions or the Habitat Plan's conservation strategy. We believe the SCCRCIS will support collaborative conservation efforts that will help the Habitat Agency achieve the Habitat Plan's biological goals and objectives.

Habitat Agency and Habitat Plan (HCP/NCCP)

The Santa Clara Valley Habitat Agency is a joint exercise of powers entity (JPA) created by the County of Santa Clara and the cities of San Jose, Morgan Hill, and Gilroy, under Government Code Section 6500 *et seq.* The Habitat Agency was formed to implement the Habitat Plan, which is a 50-year regional plan to protect endangered species and natural resources while allowing for future development in Santa Clara County. The Habitat Plan was adopted in 2013 by the JPA entities as well as the Santa Clara Valley Water District and the Santa Clara Valley Transportation Authority. The adopting entities and Habitat Agency are Co-Permittees to the Section 10 and Natural Community Conservation Planning Act permits issued by the U.S. Fish and Wildlife Service and California Department of Fish and Wildlife in 2013. The Habitat Plan covers 18 wildlife and plant species, including many species endemic to the serpentine communities in the South Bay Area region, and activities implemented by the Co-Permittees within the permit area. Participation in the Habitat Plan by the Co-Permittees is required and is not voluntary.

Santa Clara County Regional Conservation Investment Strategy

The SCCRIS is a regional conservation strategy created under AB 2087, to inform science-based nonbinding and voluntary conservation actions and habitat enhancement actions that advance the conservation of focal species, natural communities, and other conservation elements at a regional scale. The RCIS was developed as part of the California Department of Fish and Wildlife's (CDFW's) Regional Conservation Investment Strategies Program, established by AB 2087 and signed into law on September 22, 2016 by Governor Brown. AB 2087 established the RCIS Program to create a new, voluntary conservation planning tool to promote the conservation of species, habitats, and other natural resources and enable advance mitigation for public infrastructure projects. The SCCRIS provides a non-regulatory assessment and analysis of conservation needs in a region, including habitat connectivity and climate resilience. The SCCRIS is intended to provide scientific information for the consideration of public agencies, are voluntary, and do not create, modify, or impose regulatory requirements or standards, regulate the use of land, establish land-use designations, or affect the land-use authority of or exercise of discretion by any public agency. The preparation and use of SCCRIS's is voluntary.

Once approved, entities can use SCCRIS approved to guide voluntary investment in conservation actions, including habitat protection, restoration, and enhancement. The program enables project proponents to enter into Mitigation Credit Agreements (MCAs) with CDFW so that the conservation actions can generate mitigation credits that can be used to offset the impacts of public infrastructure, development, and other projects. Such MCAs can help ensure mitigation contributes to broader regional conservation goals identified in an SCCRIS, reduce the transaction costs of mitigation, decrease the time required to obtain mitigation approval, and provide assurances to project proponents that advance mitigation investments will be counted and credited for future development permits.

SCCRCIS relationship to the Habitat Plan

The SCCRIS conservation strategy, including focal species, goals, objectives, and conservation actions were designed to be consistent with, and complementary to, the Habitat Plan. To achieve this goal, the Habitat Agency participated on the SCCRIS Steering Committee, was active in crafting the AB2087 legislation, and will sign a memorandum of understanding with OSA to jointly implement the SCCRIS and Habitat Plan. The SCCRIS area includes most of the Habitat Plan's permit area, as well as, the remaining area in Santa Clara County, and a portion of northern San Benito County in the Upper Pajaro River Watershed.

Steering Committee. The steering committee was convened by the OSA to guide development of the RCIS. It includes OSA, the Habitat Agency, The Nature Conservancy, the State Coastal Conservancy, and the Valley Transportation Authority. Through monthly meetings of the Steering Committee, which occurred since the inception of the planning process in March 2016, the Habitat Agency communicated its interests as well as concerns about the SCCRIS, including how it might influence its ability to fulfill permit requirements. The Habitat Agency's issues were integrated into draft documents, which were reviewed ensure that SCCRIS will support collaborative conservation efforts and complement the achievement of Habitat Plan biological goals and objectives. Section 3.5 of the SCCRIS, which was developed with the Habitat Agency, details how the SCCRIS complements and does not conflict with the Habitat Plan.

AB2087. Several provisions in AB2087 (Section 1856j) which govern CDFW approval of MCAs are designed to ensure that implementation of RCISs does not negatively impact any approved HCP/NCCP in the region, including the Habitat Plan. This includes:

- MCAs require advance written approval of the implementing entity of a HCP/NCCP
- Credits created through MCAs can only be used for covered activities under a HCP/NCCP in accordance with the requirements of the HCP/NCCP
- Individuals and entities eligible for coverage as participating special entities under a HCP/NCCP may use MCA mitigation credits only if the implementing entity declines to extend coverage to the covered activities proposed by the eligible individual or entity

Joint Implementation. OSA and the Habitat Agency will be expanding their collaborative Habitat Plan implementation to the SCCRCIS. OSA purchased and manages the Habitat Agency's first property, Coyote Ridge, which was enrolled into the Reserve System via a Conservation Easement. We work together on regional conservation priorities, such as the preservation and restoration of Coyote Valley, which serves as an important wildlife linkage. This relationship is being codified in an MOU that lays out the roles and responsibilities for collaborative implementation of the Habitat Plan and SCCRCIS. For example, the Habitat Agency is set up for managing mitigation projects, could create MCAs that can be used to generate credits for non-covered activities and/or non-covered species. This would expand the cost-effectiveness of work to meet the existing mitigation and recovery requirements of the Habitat Plan's conservation strategy while supporting the SCCRCIS.

We look forward to continuing to participate as members of the Steering Committee to refine the SCCRCIS based on feedback from the Department as well as the public.

I hope you will not hesitate to contact me if you have any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "Edmund Sullivan".

Edmund Sullivan
Executive Officer

Reference

ICF International 2012. Final Santa Clara Valley Habitat Plan. Prepared for the County of Santa Clara, City of San Jose, City of Morgan Hill, City of Gilroy, Santa Clara Valley Water District, and Santa Clara Valley Transportation Authority. August. Available: <http://scvhabitatagency.org/178/Santa-Clara-Valley-Habitat-Plan>.