



TO: Santa Clara Valley Habitat Agency Governing Board

FROM: Edmund Sullivan, Executive Officer

SUBJECT: Participating Special Entity Agreement with Santa Clara County Open Space Authority for the Doan Gully Repair Project

RECOMMENDED ACTIONS:

Adopt a Resolution making positive findings and approving a Participating Special Entity Agreement with the Santa Clara County Open Space Authority Doan Gully Repair Project.

BACKGROUND:

The Habitat Plan allows the Habitat Agency to grant coverage for activities proposed by governmental entities or regulated utilities which have not directly received state and federal permits through the adopted Habitat Plan. The governmental entities or regulated utilities receiving Habitat Plan coverage are called Participating Special Entities (PSEs). On October 17, 2013, the Implementation Board adopted Policies for the review and approval of PSEs. This staff report recommends approval of a PSE Agreement with Santa Clara County Open Space Authority (OSA) for the Doan Gully Repair Project. The recommendation is consistent with the application's review by the Wildlife Agencies, consultants to the Habitat Agency, and the Executive Officer.

Project Description:

In 2011, an unplanned release from a stock pond west of a swale within OSA's Diablo Foothills Open Space Preserve (formally known as Doan Ranch) caused erosion on the intervening low ridge and southern hillslope. The diverted flows eroded a swath of the hillslope and joined surface flows in the subject swale to create a headcut which subsequently eroded headward along the axis of the swale for a distance of roughly 150 feet. Scour of the former swale also occurred downstream of the flow confluence for a distance of 250 feet. Emergency flow diversion and erosion control measures, including plastic sheeting, a sandbag, and flexible culvert diversion were installed in December 2011 to deter any further headward progression of the gully. The gully is located in the Pajaro River

Watershed, approximately 120 feet downslope of the Coyote Creek and Pajaro River Watershed divide.

As proposed, the design for gully repair consists of three elements:

1. Determine appropriate channel grades to transition from the upstream swale to the bedrock-influenced step-pool channel just downstream of the gullied reach, and to restore the respective, pre-disturbance channel morphologies (i.e. headwater swale, transition channel, boulder step-pool channel);
2. Develop restoration channel cross-sections appropriate to the desired morphologies, reach slopes and design peak flow rates, then, adjust these cross-sections until smooth geometric and hydraulic transitions are obtained;
3. Install fill buttress composed of imported soil material of a similar texture to the native soils within the swale. The fill will be installed in compacted lifts, with woven geotextiles added to increase the stability of the buttress and a biodegradable erosion control blanket overlaying the buttress surface. Geomorphically appropriate, instream structures (e.g. rock stops, boulder steps) are also included to increase the stability of the buttress and to provide a stable transition to the undisturbed, downstream channel. The channel grading length is 475 ft., including 60 ft. upstream of the gully where the swale was disturbed by the temporary diversion, and the surface area of the proposed grading is 0.6 acre.

Environmental Review:

This project is eligible for coverage as a small habitat restoration project, and qualifies for a categorical exemption (15333 – Small Habitat Restoration Projects) and therefore no CEQA findings are required. The project meets the criteria for this categorical exemption since the primary purpose of the project is to restore and enhance native habitat for plants and wildlife, and is less than 5 acres in size. The project will follow Conditions in the Santa Clara Valley Habitat Plan including those requiring erosion control measures and avoidance and minimization measures for sensitive species and habitat. Further discussion of these conditions are outlined below

Land Cover Impacts:

The proposed project will result in 1.5 acres of temporary impacts (Table 1). The proposed development area (project footprint plus buffers) was used to calculate impacts. Figure 2 displays the land cover types within the proposed project parcels. The majority of the proposed project impacts will occur within the California annual grassland land cover type. Impacts to this land cover type are 1.0 acre of temporary impacts. The gully repair is considered a temporary impact because it is a voluntary restoration project and the condition of the gully site will be enhanced from its current condition as a result of this project. The development area from the gully repair (including a 10 foot buffer) is 0.4 acre for California annual grasslands and 0.5 acre for mixed oak woodland and forest. A construction staging area will be located within the Preserve, immediately adjacent to the gully,

between the access road and the gully. The temporary impact area from the staging area (including a 10 foot buffer) is 0.6 acre of California annual grassland.

Table 1. Natural Communities and Land Cover Impacts in the Development Area

Natural community and land cover types (in acres, except where noted)	Acreage of land cover “permanently impacted” by project	Acreage of land cover “temporarily impacted” by project
<i>Grasslands</i>		
California Annual Grassland		1.0
<i>Oak Woodland</i>		
Mixed Oak Woodland and Forest		0.5
Total		1.5

Conditions:

The activity will comply with all applicable Habitat Plan conditions. Habitat Plan conditions that specifically apply to this project are: Condition 1, Condition 3, Condition 5, Condition 14, and Condition 18. Exhibit 2 of the attached PSE Agreement identifies specific conditions of importance for this application.

Fees:

The applicant will pay mitigation fees, and administrative fees, the PSE charge is waived since the project is not a construction project and qualifies as an ecological restoration project. The total mitigation fees are \$559.96 (Table 2). The development area is in land cover Fee Zone A. The land cover fees are \$0 for permanent impacts and \$559.96 for temporary impacts. Administrative fees are based on the actual costs of staff labor and will be reimbursed by the applicant. The total amount due to the Habitat Agency is \$559.96 plus the administrative fees.

Table 2. Fees and Charges

Fee type	Impact type	Fee rate	Acres (or linear feet)	Fee Multiplication Factor	Total
<i>Land Cover Fees</i>					
Zone A	Permanent	\$17,028 per acre	1.5	0.02	\$559.96
	Temporary				
Total Mitigation Fees					\$559.96
Administrative Costs					Reimbursement of actual costs

Required findings for approval:

The Board may approve a PSE Agreement only if it makes each of the findings identified below. Each finding is numbered and followed by a paragraph that explains whether or not the finding has been met.

1. The proposed activity complies with all terms and requirements of the Governing Documents.

The application from Santa Clara County Open Space Authority for the Doan Gully Repair Project has been reviewed for consistency with the adopted Habitat Plan, Implementation Agreement, and other applicable governing documents and has been found to be consistent with the terms and requirements of those documents.

Finding #1 determination: Met

2. The Wildlife Agencies have concurred in writing with approval of the PSE.

The Wildlife Agencies (California Department of Fish and Wildlife and U.S. Fish and Wildlife Agency) have concurred via email messages dated May 20, 2015, with the approval of the Participating Special Entity Agreement for the Authority's Project, as described in the project application.

Finding #2 determination: Met

3. The impacts of the proposed activity fall within those analyzed in the Habitat Plan, the ESA Section 7 biological opinion for the Habitat Plan, and the Plan's EIR/EIS in general type, location, magnitude and effects.

The impacts of proposed activities of the Doan Gully Repair Project have been reviewed for consistency with the Habitat Plan, the ESA Section 7 biological opinion for the Habitat Plan, and the Plan's EIR/EIS and have been found to be consistent in general type, location, magnitude and effects.

Finding #3 determination: Met.

4. The impacts of the proposed activity do not deplete the amount of take coverage to such an extent that not enough is available for future Covered Activities.

The impacts of proposed activities of the Doan Gully Repair Project have been analyzed for consistency with the Habitat Plan and have been found, individually and in combination with other PSE applications, to not deplete take coverage to an unwarranted extent.

Finding #4 determination: Met.

5. The proposed activity does not conflict with the conservation strategy or the ability of the Agency to meet Habitat Plan goals and objectives.

The proposed activities of the Doan Gully Repair Project have been analyzed and have been found to not conflict with the conservation strategy or ability of the Agency to meet Habitat Plan goals and objectives. The project is within a Priority land area and enhancement of the project site will improve the overall habitat within Reserve System lands.

Finding #5 determination: Met.

6. The PSE Agreement will further the ability of the Agency to implement Habitat Plan goals and objectives.

Implementation of the Doan Gully Repair Project activities will further the ability of the Habitat Agency to implement Habitat Plan goals and objectives through payment of fees and facilitating use of the Habitat Plan's conditions of approval for an activity not directly covered by the Habitat Plan's permits and requirements.

Finding #6 determination: Met.

FISCAL IMPACT: Approval of the Santa Clara County Open Space Authority for the Doan Gully Repair Project will result in \$559.96 plus reimbursable administrative fees paid to the Habitat Agency to mitigate project impacts through the Habitat Plan's PSE process.

ATTACHMENTS:

Attachment 1 – PSE Agreement Resolution