



Yolo Habitat Conservancy

County of Yolo • City of Davis • City of Winters • City of West Sacramento
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CLARIFICATION/INTERPRETATION MEMO

Subject:	Integrating Lake or Streambed Alteration Agreement Review with NCCP Coverage
Clarification Number:	2020-1
Approved:	Dirk Brazil
Date:	January 13, 2020

Topic

The Yolo Habitat Conservancy (Conservancy) recommended guidance to Permittees for covered activities that require California Department of Fish and Wildlife (CDFW) Fish and Game Code 1600 et seq. permitting under a Lake or Streambed Alteration Agreement (LSAA, or 1600 Agreement)

Issues

- Projects covered by the Yolo Habitat Conservation Plan/Natural Community Conservation Plan (HCP/NCCP) pay land cover and wetland fees to mitigate for project impacts on HCP/NCCP covered species and natural communities. The fees contribute to the purchase of habitat preservation, restoration, management and enhancement consistent with the HCP/NCCP regional conservation strategy, such that additional mitigation is not necessary.
- If an HCP/NCCP covered project is subject to a LSAA for the same impacts to land cover types covered by the HCP/NCCP, the impacts may be considered mitigated through the payment of the fees (or land in lieu of fees) in advance of impacts, fulfilling the project's mitigation requirements for the LSAA. This possibility applies only to species and habitats covered by the HCP/NCCP; non-covered species or habitats would be addressed separately in the LSAA and may be subject to additional mitigation requirements.

- HCP/NCCP applicants or Permittees should provide CDFW with information regarding payment of HCP/NCCP fees and relevant avoidance and mitigation measures that will facilitate CDFW review and used with their LSAA Notifications.

Background

This memo clarifies the extent of mitigation coverage Permittees can expect from their participation in the HCP/NCCP and to identify those circumstances where additional mitigation for habitat impacts could potentially be required in the LSAA for a project.

A LSAA is required for any activity that may “substantially divert or obstruct the natural flow of, or substantially change or use any material from the bed, channel, or bank of, any river, stream, or lake, or deposit of disposal of debris, water, or other material containing crumbled, flaked, or ground pavement where it may pass into any river, stream, or lake . . .” [FGC 1602(a)]. Applicants are directed to contact the CDFW regional representative with any project-specific questions on LSAA coverage and the permitting process (information is also available on the CDFW website at <https://www.wildlife.ca.gov/Conservation/Environmental-Review>).

The Yolo HCP/NCCP requires that project applicants identify streams, rivers, lakes, and ponds in and within 25 feet of project footprint inside urban planning units (i.e., urbanized areas), and within 100 feet of project footprint outside urban planning units, and to provide development setbacks (25 feet within urban planning units, 100 feet outside urban planning units) where possible. If streams, river, lakes or ponds cannot be avoided, project applicants are required to pay a land cover and wetland fee. The land cover fee is used for land acquisition and long-term management, and the wetland fee is used for wetland restoration. This includes protection, management, and restoration of natural communities normally that normally occur in and along was bodies subject to LSAA's. Activities covered under the Yolo HCP/NCCP will result loss of up to 88 acres of fresh emergent wetland, 588 acres of valley foothill riparian, and 236 acres of lacustrine and riverine natural communities; the protection and management of 500 acres of fresh emergent wetland, 1,600 acres of valley foothill riparian, and 600 acres of lacustrine and riverine natural communities; and the restoration of 88 acres of fresh emergent wetland, 608 acres of valley foothill riparian, and 235 acres of lacustrine and riverine natural communities.



Analysis

The HCP/NCCP is both a federal Habitat Conservation Plan (HCP) and a state Natural Community Conservation Plan (NCCP), the terms of which have been agreed to by the US Fish and Wildlife Service and CDFW. Accordingly, it provides mitigation for impacts to special status species covered under the plan, and the natural communities upon which the species depend, as well as additional conservation beyond the mitigation needs associated with projects covered under the HCP/NCCP. The mitigation includes permanent habitat protection, restoration, management, and enhancement.

Depending on the amount and extent of a project's impacts on resources, CDFW may require compensatory mitigation in a LSAA. If a LSAA is issued for a project that is covered under the HCP/NCCP, the compensatory mitigation may be fulfilled through payment of appropriate fees to the Conservancy. If a project may impact a plant of wildlife species or habitat type that is not covered by the HCP/NCCP, however, then the payment of HCP/NCCP fees and compliance with the applicable measures might not provide sufficient protection or compensation for the Project's impacts under the LSAA. In such cases, CDFW may include additional requirements in the LSAA for the project, including, but not limited to, additional avoidance, minimization, or mitigation measures. This instance notwithstanding, the Permittees to the HCP/NCCP have an expectation that the payment of HCP/NCCP fees for covered projects generally meets the compensatory mitigation requirements of the LSAA for a project's impacts to species or habitats. In review of LSAA Notifications for HCP/NCCP covered projects, however, CDFW will ultimately determine the sufficiency of mitigation assigned to a project through the payment of fees for compensatory habitat protection and restoration.

To assist CDFW permitting staff in the review of LSAA Notifications for projects and, later, in the preparation and issuance of the LSAA for HCP/NCCP covered projects, Permittees or applicants should include the following information in the LSAA Notification package:

1. The final HCP/NCCP application package approved by the appropriate Permittee, including application form and all required attachments.
2. Any potential impacts to species and/or habitat types which are not covered by the HCP/NCCP.

Yolo Habitat Conservancy Guidance to Permittees

- The Conservancy recommends that applicants and Permittees work with the CDFW on the LSAA after completing the HCP/NCCP application, but applicants and Permittees do not



need to wait to start the LSAA process until the applicant or Permittee has received the final Certificate of Inclusion, Certificate of Compliance, or Certificate of Approval.

- The Conservancy recommends that Permittees adopt or modify a standard condition of approval for all projects which are subject to Yolo HCP/NCCP fees and which may also require issuance of a LSAA by CDFW. Applicants seeking approval under the Yolo HCP/NCCP for a project that requires a LSAA should provide as complete information as possible in the LSAA Notification package submitted to CDFW. Information that should be included in the LSAA Notification package includes all relevant conditions from the Yolo HCP/NCCP that will be implemented for the project, types of impacts (temporary and/or permanent), and proof of payment of Yolo HCP/NCCP fees, if available at the time the Notification is submitted. If proof of payment of fees (see Analysis section above), is not available at the time the Notification is submitted, CDFW will require it in the Final LSAA prior to the start of project activities.
- The new or modified condition should clarify the responsibility of the Permittee to provide the appropriate documentation to applicants and that applicants need to provide such documentation when sending a LSAA Notification to CDFW.

