



Yolo Habitat Conservancy

County of Yolo • City of Davis • City of Winters • City of West Sacramento
City of Woodland • University of California, Davis

Yolo HCP/NCCP

Land/Easement In Lieu of Land Cover and Wetlands Fee Policy

Adopted by the Yolo Habitat Conservancy Board: July 15, 2019

Updated by the Yolo Habitat Conservancy Board: July 20, 2020

1. PURPOSE

This policy outlines the process through which the Yolo Habitat Conservancy (“Conservancy”) will provide public and private applicants a credit for land or easements in lieu of the Yolo HCP/NCCP land cover and wetlands fees. Per Section 7.5.8 of the Yolo Habitat Conservation Plan/Habitat Conservation Plan (Yolo HCP/NCCP), the Conservancy may allow permittees or private landowners to transfer fee title or place a conservation easement on all or a portion of property they own to satisfy mitigation requirements for covered activities. Also per Section 7.5.8.2, the Conservancy may allow applicants to purchase credits from mitigation receiving sites and provide those credits in lieu of fees. If the Conservancy and wildlife agencies approve a transfer of land in fee title, an easement dedication, or a mitigation receiving site credit purchase, it can reduce but only under special circumstances completely eliminate the HCP/NCCP fees required for development. Section 7.5.8.1 of the Yolo HCP/NCCP describes the criteria for providing land in lieu of Yolo HCP/NCCP fees.

2. SCOPE

This policy applies to all public and private applicants who would like to provide land or easements in lieu of a portion of the Yolo Habitat Conservancy’s land cover fee and wetland fees. See the Mitigation Receiving Site Credit In Lieu of Fees Policy for applicants would like fee credit from a mitigation receiving site.

3. POLICY

Any public or private applicant subject to the land cover fee may propose dedication of land or an easement in lieu of payment of a portion of the land cover fee and wetlands fees. To dedicate land or an easement, the applicant must sign a land dedication agreement with the Conservancy. The Conservancy and the applicant must execute the agreement before commencement of covered activities to which the Conservancy will apply credit against a portion of the fees.

The land dedication agreement will specify the following terms:

1. **Approval of land proposed in lieu of the land cover fee and wetlands fees:** The Yolo Habitat Conservancy and the wildlife agencies must approve any fee title transfer or easement proposed in lieu of the Yolo HCP/NCCP fee because the Conservancy will manage the land as part of the reserve system in perpetuity. The landowner must therefore allow the Conservancy and its representatives

access to the land to evaluate the conservation value of the property, as well as determine whether the property sufficiently contributes to the biological goals and objectives of the Yolo HCP/NCCP. The landowner must pay all costs, including staff time and due diligence costs (e.g. appraisal, Phase 1 or 2 environmental assessments), associated with this process. The Conservancy requires a deposit of between \$5,000 and \$10,000 to fund these costs and may request additional funding if needed to cover costs. The Conservancy will return any unused funds remaining with the Conservancy to the applicant after the fee credit process is complete.

2. **Amount of credits expressed in acres:** The Conservancy will determine the number of potential credits to grant, one for each acre of land the Conservancy determines is suitable for inclusion in the reserve system. The Conservancy may not grant credits for all acres proposed in lieu of a portion of the fee if the species impacts from the project are significantly different than the species habitat on land proposed for conservation because the Yolo HCP/NCCP permits require the Conservancy to conserve habitat for an individual species before allowing impacts to that species' habitat.
3. **Conversion of credits to a dollar amount:** The Conservancy will convert the credits expressed in acres to a dollar amount based on the appraised value of the land or the easement only at the time the applicant transfers the land or easement to Conservancy ownership. (A qualified appraiser approved by the Conservancy will determine the fair market value of the land or easement.) This dollar amount is the total amount the applicant may deduct from the land cover and wetlands fees owed to the Conservancy. The applicant may determine the timing of dedication in consultation with the Conservancy.
4. **Activation of approved credits:** The agreement will specify the covered activities eligible to activate approved credits in lieu of the Yolo HCP/NCCP fee obligation, the maximum dollar amount of the credit for which the applicant is eligible, and the timing of eligibility. Applicants are currently eligible for a maximum credit (in dollars) of 59 percent of the land cover fee because 41 percent of the total fee is allocated to costs unrelated to acquisition of land, such as the post-permit endowment, administration, management, and monitoring and research.¹ Assuming that applicants restore/create wetlands acceptable to the Conservancy, applicants are eligible for a maximum credit of 81 percent for the fresh emergent wetland fee, 85 percent for the valley foothill riparian wetland fee, and 76 percent for the lacustrine and riverine wetland fee.² This share may change during plan implementation, so the agreement will specify the full amount of the credit. The Conservancy may, at its discretion, provide a credit higher than 59 percent if the project is eligible for a land dedication incentive (see *Land Dedication Incentive Policy*). Applicants will determine whether the dollar amount

¹ See Tables A and B, *Allocation of Yolo HCP/NCCP Funding*, attached to this policy, for the percentage allocation of land cover fee revenue to "establish reserve system" costs, which is the portion of the fee dedicated to land acquisition.

² See Tables A and B, *Allocation of Yolo HCP/NCCP Funding*, attached to this policy, for the combined percentage allocation of the applicable wetland fee revenue to "establish reserve system" and "other restored/created wetland capital" costs, which is the portion of fee dedicated to land acquisition and restoration/creation capital costs.



of the credits is greater or less than the maximum potential fee credit available to the proposed project in consultation with the Conservancy.³

5. **Transfer of credits:** The applicant may only use the dollar value of credits for covered activities specified in the agreement and may not transfer the credits to other covered activities.
6. **Remaining credit value:** The Conservancy will base the dollar value of credits remaining after use for an approved covered activity on the value per acre used to establish the original dollar value of the credits and adjust the credit based on any annual or periodic adjustments to the fee schedule.
7. **Agreement term:** The agreement will include an expiration date that will apply to any potential land dedication credits and any approved land dedication credits that are not activated.

Land dedication incentive policy

If the applicant proposes land for dedication of unique and significant conservation value to the reserve system, the Conservancy may offer an incentive to the applicant for the land dedication. The Conservancy shall determine the conservation value of lands proposed for dedication based on the Conservancy's analysis of current reserve requirements and the role the proposed lands will play in meeting those requirements. The land dedication incentive allows the Conservancy to provide a maximum credit higher than the amount listed in no. 4 above because of the unique and significant conservation value. The Conservancy has sole discretion to determine whether the conservation value is unique and significant and the amount of the increased credit. The ability of the Conservancy to grant incentives for land dedication will depend on several factors, including: 1) The Conservancy's ability to fund its obligations under the Yolo HCP/NCCP based on its current and projected cash flow; 2) the maximum amount of land acquisition to be funded by the land cover and wetlands fees.

Attachment A. Table A - Allocation of Yolo HCP/NCCP Funding (amount by funding source)

Attachment B. Table B - Allocation of Yolo HCP/NCCP Funding (percentage by funding source)

³ For example, if the applicant's proposed project is 100 acres and the land cover fee is \$10,000/acre, then the maximum available credit would be \$590,000 (100 x \$10,000 x 59%). The Conservancy would not accept land dedicated to the reserve for an appraised value in excess of this amount without applying the Land Dedication Incentive Policy.

