



Yolo County Habitat/Natural Community Conservation Plan Joint Powers Agency

## YOLO NATURAL HERITAGE PROGRAM

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### **Swainson's Hawk Mitigation Receiving Site Selection and Approval Guidelines**

#### **I. Benefits and Costs**

A mitigation receiving site is property encumbered by a conservation easement for the purpose of providing mitigation credits to offset the impacts of future development. Locally, projects that decrease or impair existing Swainson's hawk habitat may turn to a local mitigation receiving site to purchase "credits" for project impacts from the receiving site owner. A credit purchase will typically require the payment of a per-acre fee and the recording of various documents to establish that mitigation has occurred (and to track the remaining credits available for purchase). In this manner, mitigation receiving sites create an efficient means of conserving agricultural land (and in some instances, nesting habitat) for the benefit of the Swainson's hawk and foster species survival.

To support the establishment of local mitigation receiving sites, the Yolo County Habitat/Natural Community Conservation Plan Joint Powers Agency (JPA) Board of Directors adopted a resolution (Resolution 2008-1112), on November 10, 2008, expressing the Board's desire to "expand... the range of conservation tools available for use in the Swainson's hawk *in lieu* mitigation fee program." The resolution further identifies a number of steps for the creation of local mitigation receiving sites, including those described below. The Board of Directors affirmed its support for the creation of mitigation receiving sites on December 16, 2013, and authorized the Executive Director to create a Science and Technical Advisory Committee (STAC) to assist with the process.

#### **Benefits of establishing a mitigation receiving site**

Establishing a mitigation receiving site is a means of preserving Swainson's hawk habitat with the potential for bringing income to the landowner through the sale of mitigation credits. In some cases, it may reduce the assessed value of the land for tax purposes. It also protects the land and its resources for the future, ensuring that future generations have continued opportunities to farm, while providing income to the landowner. By establishing mitigation receiving sites within the County, opportunities are provided for local and timely mitigation for the loss of Swainson's hawk habitat from local development activities.

## Costs of establishing a mitigation receiving site

A number of legal and process costs are incurred by the landowner to establish a mitigation receiving site, including but not limited to costs of an appraisal, development of the easement for YHCCP review, and reimbursement of YHCCP staff costs. These are identified in the “Steps” described below.

## II. Steps to Establish a Mitigation Receiving Site

The following steps provide a general illustration of the process the JPA will follow in establishing mitigation receiving sites with interested landowners. In all likelihood, individual transactions will vary slightly from the process set forth below. At the start of each transaction, JPA staff will review these steps with the interested landowner and identify any changes that may be appropriate to ensure the process fits the needs of the landowner and the JPA.

- A. **Outreach:** Information about how to establish mitigation receiving sites, including criteria for selection and costs and benefits to landowners, will be widely disseminated to encourage submission of candidate sites.
- B. **Template:** Upon request, JPA staff will provide a template for a mitigation receiving site agreement, which the landowner may use as a preliminary example of the agreement that would ultimately be negotiated.
- C. **Site nominations:** The interested landowner initiates the process by submitting his/her property for consideration. Landowner fills out an application for JPA review, including a map and description of the property that indicates it contains significant wildlife and habitat values, history of agricultural or other uses of the property for the past 5 years, and proof of ownership, such as a current preliminary title report.
- D. **Meeting or telephone conversation with landowner:** If necessary, property owner and JPA staff meet to discuss the application.
- E. **Map of covered species occurrences on the property.** The JPA will provide a map of covered species occurrences on the property.
- F. **Initial screening process:** Initial screen of properties submitted for consideration will be conducted by JPA staff with assistance from the Science and Technical Advisory Committee (STAC) chair or appropriate member(s) prior to formal review by the STAC. Initial screening is based on a review of current needs for mitigation sites for particular species and/or habitat and suitability of the proposed candidate site to serve as a mitigation receiving site.

G. ***The STAC Review and Recommendation Process:*** The STAC will review proposed sites to determine if they are generally suitable based on established criteria, including but not limited to the following:

1. location within the Conservation Reserve Area of the plan
2. habitat values for targeted covered species (e.g. Swainson's hawk)
3. proximity to existing protected lands
4. proximity to other suitable habitat
5. consistency with Yolo HCP/NCCP's conservation strategy

The STAC review will usually include a visit to the candidate site by appropriate members of the STAC and JPA staff and the following actions:

1. The STAC review will be documented in a Habitat Ranking Worksheet and/or Habitat Comparison and Evaluation Matrix, which will be used to identify the highest quality habitat.
2. The STAC will develop a recommendation to the JPA Executive Director, which could be one of three choices: 1) strongly recommend 2) recommend 3) do not recommend.
3. The STAC will prepare a brief report on each site evaluated.

H. ***Approve site and prepare draft mitigation receiving site agreement.*** After the STAC provides its recommendation on a site, JPA staff will take the recommendation to the JPA Board for approval to move forward or concurrence with a decision not to recommend a site. If the Board approves moving forward, JPA staff will proceed with the landowner on the terms of the mitigation receiving site agreement, including arrangements for selling and recording mitigation credits.

1. The property owner will submit the following to the JPA:
  - a. A draft mitigation receiving site agreement based on the template provided by the JPA. Alternatively, if staff resources are available (and the landowner elects to pay related costs), JPA staff can prepare draft and final agreement documents.
  - b. An initial \$5,000 deposit to cover staff costs for agreement preparation/review and other initial work. All staff costs will be paid by landowner, although the JPA will strive to minimize costs and will keep the landowner regularly apprised of anticipated review costs. Any unused funds will be returned to the landowner, but additional deposits may also be requested if costs exceed \$5,000. The JPA will track expenditures and provide biannual reports to the landowner.

2. The JPA staff reviews the draft mitigation receiving site agreement and works with the landowner to finalize agreement terms for consideration by the JPA Board. Concurrently, JPA staff and the landowner negotiate the terms of a conservation easement covering the proposed site.
  - a. At this point (or in some cases, earlier) the JPA, in coordination with the landowner, selects an appropriate organization to hold the easement for the mitigation receiving site and enters into an agreement with this entity to ensure its participation in easement review and other steps of the transaction.
  - b. In consultation with the easement holder, the landowner develops a property analysis record to determine the appropriate amount of an endowment covering monitoring and enforcement costs in perpetuity.
3. After negotiations conclude, the agreement and easement are submitted to the JPA Board for preliminary approval subject to the completion of the transaction. At this time, it is also submitted to any other involved agencies for review and approval, if required.
4. After review, JPA staff provides the following documents:
  - a. the final draft mitigation receiving site agreement and conservation easement
  - b. conditions and requirements for the endowment fund, as well as any related description of monitoring requirements
  - c. approvals from other entities, if needed
  - d. title insurance policy for the benefit of the easement holder
- I. ***Establish mitigation receiving site.*** Once the JPA and the landowner agree on the final draft mitigation receiving site agreement and conservation easement, as well as set a date for finalizing the agreement, the following steps are taken to establish the mitigation receiving site:
  1. The property owner provides the following documents:
    - a. a survey of the property prepared by a licensed surveyor
    - b. a baseline study that provides an inventory and documents the resource values of the property
    - c. a final title report on the property dated no more than 6 months prior to the closing date.

2. JPA staff assemble the following documents:
  - a. final mitigation receiving site agreement
  - b. conditions for establishing the endowment fund
  - c. description of the monitoring and stewardship program
  - d. approval by other entities, as required
  - e. agreement on a process for recording the sale of mitigation credits, including the number of available credits at this site
  - f. escrow instructions, including a statement of all transactional costs and the amount of the endowment fund to be contributed by the landowner concurrently with the close of escrow
  
3. After the JPA reviews all documents, the JPA Board provides final approval, endowment funds are deposited, and the mitigation receiving site agreement is recorded.