

## **Implementation Policy of the East Contra Costa County Habitat Conservancy Regarding Application of the Stream Setback Conservation Measure 1.7**

### **Purpose:**

The purpose of this policy is to set forth guidelines on how to apply *Conservation Measure 1.7 Establish Stream Setbacks* to a development project within the Urban Development Area (“UDA”) that is adjacent to and preceded by a stream restoration project. This policy applies only when the restoration project is an East Contra Costa County HCP/NCCP Preserve System restoration project or is supported by the East Contra Costa County Habitat Conservancy.

### **Background:**

As set forth in the East Contra Costa County HCP/NCCP (“HCP/NCCP” or “Plan”), *Conservation Measure 1.7. Establish Stream Setbacks* applies to all development projects covered by the Plan.

The stream setback, as defined in the Plan, is measured from the top of the stream bank in an aerial perspective, and where native woody riparian vegetation is present, setbacks will extend, at minimum, to the outer dripline of this vegetation. Stream setbacks will be established for all perennial, intermittent, and ephemeral streams for all covered activities within the Plan’s UDA. Stream setback requirements for the Plan were developed on the basis of an extensive literature review of applicable research from both local and national sources and in consultation with United States Fish and Wildlife Service (“USFWS”), California Department of Fish and Wildlife (“CDFW”), United States Army Corps of Engineers, State Water Resources Control Board, Regional Water Quality Control Board, and the Environmental Protection Agency.

The required stream setbacks are designed to maintain existing habitat value for covered species, which is generally low within the UDA. The setbacks were designed in the HCP/NCCP to maintain a limited restoration potential, and although the conservation measure is not intended to be an urban creeks restoration program, it may serve as such.

The stream setback measure is intended to achieve the following purposes.

- Maintain or improve water quality by filtering sediments and pollutants from urban runoff before they reach the stream.
- Allow for protection of preserved and restored riparian woodland and scrub within and adjacent to the stream channel.
- Maintain a buffer zone between urban development and existing and restored nesting habitat for Swainson’s hawk and other bird species.
- Maintain and enhance the water quality of the stream to protect native fish populations, including populations of special-status species that occur in downstream reaches (e.g., fall-run Chinook salmon in Marsh Creek).

- Maintain a more viable wildlife corridor for some species (e.g., California red-legged frog, foothill yellow-legged frog) than would be present with a narrower buffer zone.
- Maximize the natural flood protection value of the floodplain.
- Provide for recreational trails along the corridor that are compatible with wildlife use.

Stream restoration projects may modify the location of the top of the stream bank either by altering the stream bank itself or by extending the outer dripline of the riparian vegetation along the stream. Therefore, the top of the stream bank post-restoration may differ from the pre-existing top of the stream bank. Because restoration projects can vary depending on the scope and purpose, restoration projects in this implementation policy are specific to Preserve System restoration projects or projects supported by the Conservancy within the UDA. Such projects are expected to be very limited, if not rare occurrences, and have been identified as “key restoration priorities” in HCP/NCCP Figures 5-2 and 5-3.

The Plan does not provide any specific guidance on how to apply the stream setback conservation measure for a situation where stream restoration occurs in advance of a development project. The Plan only defines the stream setback as being measured from the top of stream bank or the outer dripline of riparian vegetation, and does not offer any further guidance if the top of stream bank has been altered since Plan implementation (2007) due to restoration efforts.

Due to this potential variation in the top of the stream bank resulting from restoration projects, this Implementation Policy and following guidelines are warranted to define the top of stream bank.

**Guidelines for applying *Conservation Measure 1.7 Establish Stream Setbacks* when a Preserve System or Conservancy supported stream restoration project precedes a development project within the UDA:**

1. The stream setback will be measured from the top of the stream bank as it exists at the time of Plan adoption *and* prior to a stream restoration project. Where native riparian vegetation is present, minimum setbacks must extend to the outer dripline of the riparian vegetation, or the specified number of feet measured from top of stream bank, whichever is greatest; and
2. The development project must maintain a buffer from the new, modified top of stream bank adequate to maintain habitat value for covered species, to be determined through the Conservancy permitting process.