

# Aquatic Resource Management



## How to Establish a Mitigation Bank

A mitigation bank is large-scale wetland and/or stream restoration project that may be used to offset losses of aquatic resources, as authorized by the Department of State Lands (DSL) and by the US Army Corps of Engineers (Corps).

The agencies encourage banks because they provide greater ecological benefits and are more efficient to manage than multiple smaller mitigation projects. Mitigation banks can be a profitable business venture when there is a suitable project site, skilled practitioners and market demand.

The number and range of mitigation banks has grown continually since the program started in 1995, but there are still many locations in the state that are underserved.

Prospective mitigation bankers need to be aware of the detailed requirements and also the risks involved in this unique business venture. Listed below are some of the common concerns.

### Site Suitability

A good bank location is one that provides substantial opportunity to provide an increase in wetland functions such as flood storage and attenuation, water quality improvement, a diversity of wetland habitat types, and connecting corridors for wildlife between these habitats and other protected natural areas.

Often the best mitigation locations are sites that were formerly wetlands, but were drained. The

water source that sustains the new wetland must be reliable. Banks should be sited where they do not conflict with adjacent land uses, and where human disturbances will be minimal. If a bank site coincides with the interests and priorities of a local land trust or other long-term conservation steward, it may be easier to secure the required arrangement for ongoing management.

### Bank establishment requires technical expertise and equipment

Wetland restoration is both a science and an art. It is important to understand the capability of the soils at your site to target the correct native plant communities that will succeed there. Expertise in farming and botany, especially site preparation and weed control, has proven important to the success of existing banks. Timing of restoration activities is critical, so it helps if the appropriate agricultural equipment is readily available. Also, it is helpful if the banker becomes familiar with the permit procedures of DSL and the Corps in order to understand their customers' needs.

### Bank service areas

A service area is the geographic area where a bank is allowed to sell credits to applicants for removal-fill permits or to resolve violations. Normally, the agencies identify the 8-digit HUC watershed map as the appropriate service area; however some variation may be approved if justified by ecological principles. Therefore, the size of the bank needs to match the market demand within the watershed.

### **Timelines to establish a bank**

It can take about a year to develop the agreements to begin a new mitigation bank. DSL and the Corps have created templates to make the process more predictable, and the agencies have specific required timelines for responding to banker submittals. The mitigation bank sponsor will work with an Interagency Review Team (IRT) to ensure that the plans meet the requirements of all the relevant agencies, and have a high probability of success. The process includes public review of the prospectus, agency review of draft and final documents, and securing permits for construction, water rights and local land use approvals.

### **Financial resources to establish a bank**

A prospective banker should consider the investment necessary to secure the project site, prepare technical plans and reports, and conduct the initial site preparation, earth work and planting. These steps must be implemented before the agencies will release the first increment of credits for the banker to sell. Larger sites may be constructed in phases.

### **Maintenance and long-term stewardship of bank sites**

After the bank plan is approved and the project constructed, the agencies will make annual inspections and review monitoring reports to ensure the new bank is on track to succeed. The agencies release credits for sale in increments over a period of 5-7 years as the agreed-upon performance measures are achieved. The bank sponsor is required to provide plans and funding for long-term protection, management and monitoring of the bank site after all credits are sold.

### **Competition among banks**

The bank sponsor is responsible for assessing market demand. The IRT cannot guarantee future credit sales, nor do they prevent new banks from starting up within the service areas of existing banks. Removal-fill permit applicants always have the option of conducting their own wetland mitigation, but it is often more convenient for them to buy credits from a banker rather than take on the liability for the success of their own mitigation project.

### **Frequently Asked Questions**

#### **How does the IRT determine how many credits will be generated?**

State rules allow use of the standard ratios or other accounting methods based on assessment of wetland functional gains, as approved by DSL. Corps replacement ratios may be different, so the IRT will discuss and reach agreement on a common denominator to meet the needs of both agencies.

#### **Who determines the value of a bank credit?**

Bankers determine the price of their credits and terms of sale. The IRT does not get involved in establishing the price for credits.

#### **Can I get credit for protecting an existing wetland?**

Preservation of certain types of existing rare or high-quality wetlands is allowable as mitigation, but the credit ratio is low compared to projects that yield a net gain of wetland area and functions.

#### **Can a wetland bank allow hunting?**

Yes, hunting may be allowed on bank sites, subject to state hunting regulations.

#### **Additional information:**

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