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Mitigation Banking in Virginia

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Large forest landowners take note – there is a way to conserve land, enhance the environment, and make a profit: through Mitigation Banking. Through Wetland Mitigation Banking forested wetland areas can be restored, enhanced and preserved by a landowner and “credited” as a commodity available for sale to third parties. While Mitigation Banking has been common in Virginia for over ten years, many landowners are unaware of how they can participate.



**Stream proposed for restoration.
York River Mitigation Bank.
Photo by DEQ.**

The Virginia Department of Environmental Quality (DEQ) administers the Virginia Water Protection (VWP) Program, which is the state program tasked with protecting and managing wetlands and streams to protect their beneficial uses. State law requires that a VWP permit be obtained before disturbing a wetland or stream by filling, excavating, draining, or ditching. Many of these permits require compensation for the wetland and stream acreage and functions lost. This compensatory mitigation can be accomplished through a combination of restoration, creation, enhancement, and preservation.

In coordination with the U.S. Army Corps of Engineers (the Corps) and other state and federal natural resource agencies, DEQ actively participates in Mitigation Banking Review Teams (MBRTs). These teams review all proposals for mitigation banks, determine how and when banks can be used, and oversee the monitoring for the bank’s ecological success. Mitigation banks have several advantages over other forms of compensation. Generally, banks are larger sites that are able to provide greater ecological functions and values, are often connected to other valuable natural resources, and provide advance compensation before permitted impacts are taken.

The mitigation banking approval process involves an agreement between the MBRT and the bank sponsor; this is called the Mitigation Banking Instrument, or MBI. The MBI defines the geographic area where credits can be sold (called the Service Area), and gives details on how credits will be derived from the site, the monitoring and success criteria, and the long-term management of the site. The monitoring period for banks is generally ten years. The bank site must be preserved in perpetuity through a conservation easement or deed restriction.



**Wetland restoration. Potomac
River Bank. Photo by DEQ.**

Not every site or property is suitable for mitigation banking. Wetlands and streams are complex systems, and their restoration, creation, enhancement, or preservation often requires specialized ecological and

engineering knowledge. Likewise, the mitigation banking process requires experience to efficiently navigate. Numerous environmental consultants are working on mitigation bank projects in Virginia, and have expertise with these types of projects. Some aspects to keep in mind when considering

mitigation banking: the landscape position of wetlands and streams, the connection of the bank to other natural resources or protected lands, the ability to preserve entire watersheds or systems, future and present land uses of surrounding lands, and the presence of protected plant and animal species. The MBRT will support sites that have the highest likelihood of ecological success.



Cypress growth at Year 1 monitoring interval. Great Dismal Swamp Mitigation Bank. Photo by DEQ.

Approval of a mitigation bank by the MBRT does not guarantee financial or economic success of the bank. The bank sponsor should consider the development potential within their service area and the market demand for compensatory mitigation credits before undertaking a mitigation bank project. Credit prices are determined by the bank sponsor after considering the project costs: land purchase, design and construction, monitoring, long-term maintenance, and the economic climate of the area.

Mitigation banking is a voluntary, market-driven approach to conserve and protect Virginia's wetland resources. More information on wetlands, streams, the VWP program, and mitigation banking can be found on the DEQ website www.deq.virginia.gov/wetlands or the Corps' Norfolk District website www.nao.usace.army.mil/Technical%20Services/Regulatory%20Branch/homepage.asp. Important documents can

be found on these sites and should be reviewed before entering this process: Mitigation Banking Do's and Don't's, Federal Guidance on Wetland Banks, and Joint DEQ/Corps Recommendations for the Design and Performance of Compensatory Mitigation. A database of existing and proposed mitigation banks in Virginia, called RIBITS, can also be found on the Corps' website.

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