

Prospectus Submittal Procedures for Federal and State Wetland Mitigation Banks in Washington State

Introduction

The prospectus provides a conceptual overview of the proposed wetland mitigation bank (bank) and serves as the basis for initial public and Interagency Review Team (IRT)¹ review and comment. The prospectus must summarize information associated with the proposed bank at a sufficient level of detail to support informed public and IRT comment. As IRT Co-chairs², the U.S. Army Corps of Engineers and Department of Ecology use the prospectus and comments received during the public notice period to make an initial determination on whether there are critical issues that may affect the ability of the bank to be certified. For specific rule language, see the Federal Rule³ and the State Rule⁴.

Overview

Preliminary Review of the Draft Prospectus

Prior to prospectus submittal, the Sponsor may elect to submit a draft prospectus to the Co-Chairs for comment and consultation. This preliminary review is optional but strongly recommended. It is intended to identify potential issues early so that the Sponsor may attempt to address those issues prior to the start of the formal review process.

Prospectus

The Sponsor is responsible for preparing all documentation associated with bank establishment including the prospectus. The Sponsor must submit complete electronic and hard copies of the prospectus to the Co-chairs. If the electronic submittal is over 10 MB, contact the Co-chairs to determine the best format (e.g. CD, FTP site, etc.). A prospectus must contain all of the information identified in the attached checklist at a sufficient level of detail to support informed public and IRT comment to be considered complete.

On receipt of the Sponsor's prospectus, the Co-chairs will review the document. The Co-chairs will notify the Sponsor in writing within 30 days of receipt of the prospectus whether or not the document is complete. If the prospectus is determined to not be complete, the Co-chairs will notify the Sponsor of any additional information necessary to complete the prospectus. If the prospectus is determined complete, the Co-chairs will move forward with a joint public notice.

¹ An interagency group of federal, tribal, state, and/or local regulatory and resource agency representatives that reviews documentation and makes decisions for the establishment and management of a bank.

² The IRT is Co-Chaired by the Corps and Ecology. The Co-Chairs are the final decision-making authority of the IRT.

³ Compensatory Mitigation for Losses of Aquatic Resources, 33 CFR Parts 325 and 332.

⁴ Wetland Mitigation Banks, Chapter 173-700 WAC.

Joint Public Notice, Review, and Comment

Within 30 days of a prospectus completeness determination, the Co-chairs will issue a public notice on the proposed bank⁵. The public notice will include a summary of the prospectus and indicate that the full prospectus is available to the public for review at the applicable agency office or their website.

The public notice comment period will be a minimum of 30 days. The Co-chairs will notify the Sponsor if the comment period is extended beyond 30 days, including an explanation of why the longer comment period is necessary.

The Co-chairs will distribute copies of all comments received in response to the public notice to the Sponsor within 15 days of the close of the public comment period.

Initial Evaluation

After the end of the comment period, the Co-chairs will review the comments received in response to the public notice and make a written initial evaluation to the potential of the proposed bank to provide compensatory mitigation for activities authorized by regulatory permits, and on the ecological appropriateness of the bank. The Co-chairs will provide the Sponsor with this initial evaluation letter within 30 days of the end of the public notice comment period.

If the Co-chairs determine that the proposed bank has potential for providing appropriate compensatory mitigation for activities authorized by permits and is ecologically appropriate, the initial evaluation letter will inform the Sponsor that they may proceed to the technical review stage of the certification process. If the Co-chairs determine that the proposed bank does not have potential for providing appropriate compensatory mitigation for permits or is not ecologically appropriate, the initial evaluation letter will provide the reasons for that determination.

The Sponsor may revise the prospectus to address the Co-chairs' concerns and submit a revised prospectus. If the Sponsor submits a revised prospectus, a revised public notice may be issued.

⁵ Public notices will be issued in accordance with the public notice procedures at 33 CFR 325.3 and as specified in WAC 173-700-240 and 173-700-241.

Prospectus Checklist for Federal and State Wetland Mitigation Banks

The prospectus must summarize information associated with the proposed wetland mitigation bank (bank) at a sufficient level of detail to support informed public and Interagency Review Team (IRT) comment.

The prospectus should be organized in a report format including a cover page, table of contents, page numbers, and headings/titles for each section discussed. Information should be provided in complete sentences and paragraphs. This checklist is meant as a guide for what should be covered in the prospectus discussion and associated figures, not as a question and answer form.

To view past prospectus submittals visit: The Corps' website, Regulatory In Lieu Fee and Bank Information Tracking System (RIBITS): <https://ribits.usace.army.mil>.

Please provide a completed checklist with the prospectus submittal

- Cover page including bank name, Sponsor name, and submittal date.
- 1. Page #: _____. Provide contact information for the Sponsor.
- 2. Page #: _____. List the goals and objectives of the proposed bank.
- 3. Page #: _____. Describe the proposed bank site location including city or county, address, proximity to existing roads and other landmarks, parcel numbers, section/township/range, and latitude/longitude.
- 4. Page #: _____. State how the bank meets any watershed restoration needs and how its design and location are ecologically appropriate. Include references to supporting documents.
- 5. Page #: _____. Provide rationale for site selection that includes, but not limited to, the following:
 - a. Banks must be sited based on a watershed approach;
 - b. Banks must be sited, planned, and designed to be self-sustaining over time;
 - c. Ecological suitability, ecological sustainability, and land use compatibility;
 - d. Compatibility of the proposed bank with designated agricultural lands of long-term commercial significance (ALLCS); and
 - e. Requirements specified in the State Rule, WAC 173-700-303.
- 6. Page #: _____. State the general need for the proposed bank.
- 7. Page #: _____. Describe existing conditions of the proposed bank site including, but not limited to:
 - a. Land ownership;
 - b. Local land use or zoning designation;
 - c. Current use;

- d. Presence of liens, rights-of-way, easements, or other encumbrances;
 - e. The landscape position of the site including water resource inventory area (WRIA), basin, and sub-basin location;
 - f. Number of existing wetlands, sizes, and types present on the site including Washington State Department of Ecology Wetland Rating, Cowardin classification, and hydrogeomorphic (HGM) class of each wetland. Include a table;
 - g. Other aquatic (streams, ponds, ditches and other water features) and upland habitat types present;
 - h. Available information on water sources including surface water features, preliminary ground water information; soil types; and vegetation;
 - i. A preliminary analysis of functions provided by on-site wetlands, streams, and other aquatic resources;
 - j. Adjacent land uses that might affect the bank's function including zoning;
 - k. Site constraints, conflicts, or known risks that could affect bank development or function;
 - l. Identification of all buildings, structures, and other built features and whether these structures would remain on the bank site after construction; and
 - m. Identification of existing mitigation sites and whether they will remain on-site after construction.
8. Page #: _____. Describe conceptual site design, including but not limited to:
- a. Proposed types and approximate sizes of wetlands;
 - b. Other proposed habitat types to be provided;
 - c. Proposed functions that the bank is anticipated to provide;
 - d. Description of alterations to hydrology;
 - e. Location of grading, if applicable; and
 - f. Proposed structures (e.g., perch poles, weirs, trails, etc.).
9. Page #: _____. Describe the proposed service area and accompanying watershed-based rationale that demonstrates the service area is ecologically appropriate.
10. Page #: _____. Discuss existing water rights on the site, and whether water rights have been applied for or secured for the site, if needed.
11. Page #: _____. Identify the proposed permanent site protection mechanism.
12. Page #: _____. Describe the proposed ownership arrangements and long-term management strategy for the bank.
13. Page #: _____. Describe how the proposed bank project meets federal, state, and local laws and rules.
14. Page #: _____. Identify whether the bank site is fully or partially located on ALLCS.
15. Page #: _____. Describe the qualifications of the Sponsor to successfully complete the bank project(s) proposed, including information describing any past such activities by the Sponsor.

- 16. Page #: _____. Describe the qualifications of the main design team and their areas of expertise.
- 17. Figures should be legible when printed in black and white for the public notice. Required figures include but are not limited to:
 - a. Page #: _____. Vicinity Map.
 - b. Page(s) #: _____. Existing Conditions Site Maps indicating the following:
 - i. Total area of site;
 - ii. Location, size, and number of existing wetlands;
 - iii. Location of all streams, ponds, and other water features on or adjacent to the site;
 - iv. Location and type of all known water control features on or adjacent to the site;
and
 - v. Presence of rights-of-way, easements, or other encumbrances.
 - c. Page #: _____. Parcel Map.
 - d. Page #: _____. Proposed Conceptual Design.
 - e. Page #: _____. Soil Map.
 - f. Page #: _____. Proposed Service Area.
 - g. Page #: _____. Additional figures, as necessary.

Reference Material

Rules

Federal Rule on Compensatory Mitigation for Losses of Aquatic Resources; Available at:
http://www.usace.army.mil/Portals/2/docs/civilworks/regulatory/final_mitig_rule.pdf

Washington State Final Wetland Mitigation Bank Rule; Available at:
<http://app.leg.wa.gov/WAC/default.aspx?cite=173-700>

Websites

Environmental Protection Agency – Wetlands Protection and Restoration; Available at:
<http://www.epa.gov/wetlandsmitigation/>

US Army Corps of Engineers, Seattle District, Regulatory Program; Available at:
<http://www.nws.usace.army.mil/Missions/CivilWorks/Regulatory.aspx>

Washington State Department of Ecology-Wetland Mitigation Banking; Available at:
<https://ecology.wa.gov/Water-Shorelines/Wetlands/Mitigation/Wetland-mitigation-banking>

Publications

Selecting Wetland Mitigation Sites Using a Watershed Approach:

- <https://fortress.wa.gov/ecy/publications/documents/0906032.pdf> (Western Washington)
- <https://fortress.wa.gov/ecy/publications/documents/1006007.pdf> (Eastern Washington)

Washington State Wetland Rating System

- <https://fortress.wa.gov/ecy/publications/documents/1406029.pdf> (Western Washington)
- <https://fortress.wa.gov/ecy/publications/documents/1406030.pdf> (Eastern Washington)