US Army Corps of Engineers
Seattle District

Special Joint Public Notice

Submittal Opening for Mitigation Bank Proposals

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Name: Submittal Opening for Mitigation Bank Proposals

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Expiration Date: September 28, 2007

Notice is hereby given that the U.S. Army Corps of Engineers (USACE) Seattle District, the U.S. Environmental Protection Agency (EPA) Region 10, and the Washington Department of Ecology (Ecology) will be jointly accepting proposals for new wetland mitigation banks in Washington State. There will be a 7-week open submittal period from August 13, 2007 through September 28, 2007.

OVERVIEW OF PROCESS:
During the open submittal period, proposals will be accepted by the interagency Mitigation Bank Review Team (MBRT) and evaluated based on specific criteria. Proposals that meet the "Minimum Required Criteria for Proposals", as set out below, will be included in a pool for further evaluation. Submitters of proposals that do not meet the minimum required criteria will receive a letter suggesting options for improving their proposal for submittal during the next annual opening, or for pursuing other methods of alternative mitigation. The proposals that are accepted for further evaluation will be scored based on how well the proposed bank addresses the "Additional Evaluation Elements for Proposals". All submitters will be notified in writing of their proposal status by December 7, 2007.

The MBRT will initiate the bank certification process with the top-scoring bank proposals. As long as there are sufficient proposals that meet the minimum required criteria, a minimum of three and a maximum of ten banks will be selected to move forward. The MBRT has a limited review capacity based on current and projected staffing levels. The exact number of proposals that will be processed toward certification will be based on the MBRT's review capacity at the time. Following notice of selection, projects will begin the bank certification process with an information meeting and/or site visit as directed by the MBRT.

Proposals that meet the minimum criteria but are not selected for certification processing will remain in a pool from which projects could be selected at a future date throughout the year as MBRT review capacity becomes available. New bank proposals will be accepted into this pool during subsequent annual openings similar to this one, if they meet the Minimum Required Criteria for Proposals. They will be scored, along with the

proposals already in the minimum-criteria pool, through use of the Additional Evaluation Elements for Proposals to assess their merit for bank certification processing. During the annual open submittal period, proponents of bank proposals already carried over in the minimum-criteria pool will have the opportunity to update and supplement their submissions.

Neither placement in the minimum-criteria pool nor selection for further certification processing will guarantee eventual bank certification, nor will it result in the award of any funding of any kind.

A process of mitigation bank application review that limits consideration of banking proposals to those submitted within a designated annual window of time (i.e., the open submittal period) is necessary for several reasons. The agency representatives to the MBRT have a finite capacity to review applications and identify candidate banks, as well as to supervise the individual bank plan development process and oversee bank implementation, operation, and management. Review of mitigation bank applications must be judiciously managed, and those proposals that best address the ecological needs (e.g., impaired landscape processes) and present the greatest opportunity for operational and functional success, must be effectively prioritized.

BACKGROUND:
Wetland mitigation banks are sites that are constructed to provide compensation for unavoidable wetland impacts. In contrast to traditional mitigation sites, bank projects are established prior to the occurrence of future, unknown wetland impacts. Credits are generated by re-establishing, rehabilitating, creating, enhancing, and/or preserving wetlands and buffers at the bank site. Those credits can then be used by the bank sponsor or sold to another party to offset permitted impacts to wetlands that occur in other locations. Credits are approved for release as the bank site meets various performance measures, generally associated with establishing wetland functions.

Impact projects may be eligible for mitigating at bank sites if they occur within the bank service area (or market area) and have demonstrated that associated wetland impacts have already been avoided or minimized to the maximum extent possible through project design. Staff at the federal, state and local levels of government determine, through their permitting processes, whether a development project is approved to debit credits from a specific mitigation bank. To be considered as a mitigation option for projects that require both federal and state permits to impact wetlands, a bank must be certified by the MBRT.

The MBRT provides technical review and certification of mitigation bank proposals in Washington State. Standing members include staff from the USACE, EPA, and Ecology. Other local, state, and federal agencies may be represented on the MBRT for specific bank proposals. To date, the MBRT has reviewed only bank projects that were selected to participate in Ecology's Wetland Mitigation Banking Pilot Program (see http://www.ecy.wa.gov/programs/sea/wetlands/mitigation/banking/pilot.html for more information on the pilot program). This program was developed to test the state's draft mitigation banking rule (WAC 173-700; available at http://www.ecy.wa.gov/laws-rules/activity/wac173700.html). While the pilot program and rule development process continue, the MBRT agencies have decided to accept proposals for new mitigation banks in an effort to widen banking opportunities in the state. The proposals will be reviewed by standing members of the MBRT from the USACE, EPA, and Ecology.

For additional general information on wetland banking in Washington State, please see Ecology's Wetland Mitigation Banking webpage at
http://ecystage.ecy.wa.gov/programs/sea/wetlands/mitigation/banking/index.html.

MINIMUM REQUIRED CRITERIA FOR PROPOSALS:
The following five criteria are required components of the proposal. Submitters must clearly demonstrate how these five criteria will be met by the proposed bank in order to be selected for further consideration. The minimum criteria need not be addressed in a distinct section of the proposal, but can be integrated throughout in any manner desired as long as the proposal demonstrates that the minimum criteria are met.

1. Wetland Mitigation Focus: Proposals must focus on providing mitigation for wetland impacts. Banks targeted primarily on stream restoration or habitat protection for endangered species conservation will not be accepted at this time. Options for future certification of such banks are currently being explored by the MBRT and other entities.
2. Minimum Size: For mitigation bank sites located in western Washington (west of the Cascade Range Crest), the total size of the site must be a minimum of 40 acres or, if multiple sites are proposed for one bank, sites must cumulatively total at least 40 acres. For mitigation banks located in central or eastern Washington (east of the Cascade Range Crest) there are no minimum size criteria; size will be evaluated on a case-by-case basis.
3. Appropriate Hydrogeomorphic (HGM) Type: Proposals must demonstrate that the proposed HGM types of wetlands on the bank site(s) will be appropriate for the landscape setting. This means that the resulting wetland type would normally be found in the geomorphic setting of the bank site(s). Examples of inappropriate designs include creating a depressional wetland by installing a berm to back up water in an existing slope wetland, or excavating to create a depressional wetland in a riverine side channel. For further information on HGM types see *A Hydrogeomorphic Classification for Wetlands* by Mark Brinson (1993) or *An Approach for Assessing Wetland Functions Using Hydrogeomorphic Classification, Reference Wetlands, and Functional Indices* by Smith et al. (1995). Both documents are available at http://el.erdc.usace.army.mil/wetlands/wlpubs.html.
4. Local Government Contact: Bank proponents must contact the planning staff at the local government with jurisdiction over the bank site and confirm that mitigation banking is a viable option in that jurisdiction. Proposals should include written confirmation of this from local government staff. See Additional Evaluation Elements for Proposals, Section C in this public notice for more details.
5. Proposals must demonstrate that the bank site is not located on lands designated as Agricultural Lands of Long Term Commercial Significance. Contact the local government with jurisdiction over the area to ask about agricultural designations. This criterion may change for submittal openings in the future.

SUGGESTED PROPOSAL CONTENTS:
Proposals should include sufficient information to allow the MBRT to evaluate the merits of the project. The proposal is neither a mitigation bank prospectus nor a permit application. The level of information needed is conceptual. This material does not need to be prepared by professionals, but the services of qualified professionals, such as engineers, hydrologists, and wetland scientists, are typically needed to continue on in the bank certification process should your proposal be selected for review.

Proposals should include the following at a minimum (the order and organization of the information is left to proposal writers to determine):

Bank Site Description:
- Vicinity map showing location of proposed site(s)
- General site map showing
  - Total area of site(s)
  - General location, size, and number of existing wetlands (estimated sizes are adequate – no delineation or survey is needed at this stage)
  - General location of all streams, ponds and other water features on or adjacent to the site(s)

    - General location and type of all known water control features on or adjacent to the site(s) – e.g., berms, weirs, ditches, drain tiles, etc.
- Location description of site(s) – identify city or county, nearby roads and other landmarks, section/township/range
- Landscape setting of site(s) – identify water resource inventory area (WRIA) and sub-basin, position in watershed (e.g., high, low, headwaters area, in floodplain, on terrace, etc.)
- Local land use or zoning designation for the site(s)
- Current uses of the site(s) – e.g., grazing, gravel mining, etc.
- Ownership information - current owner(s), presence of any liens or encumbrances, rights-of-way, easements, etc.
- Types of wetlands on the site(s)
    - System and class (e.g., palustrine emergent) of wetland(s) on the site(s), based on the U.S. Fish & Wildlife Service publication *Classification of Wetlands and Deepwater Habitats of the United States* (Cowardin et al. 1979), available at http://www.charttiff.com/pub/WetlandMaps/Cowardin.pdf
    - Hydrogeomorphic (HGM) type of each wetland – see Section 5.2 of the Ecology publication *Washington State Wetland Rating System for Western Washington* (Hruby 2004), available at http://www.ecy.wa.gov/biblio/0406025.html
- Soil types on the site(s) – provide soil survey map (e.g., Natural Resources Conservation Service county soil surveys available at: http://soils.usda.gov/survey/online_surveys/washington/index.html) and any supporting information that is readily available (soil sampling, while desirable, is not required)
- General description of site hydrology –
    - Surface water features
    - Preliminary groundwater information, if available – e.g., depth, expected length of saturation, etc. (groundwater monitoring data is not required)
    - Hydroperiods of existing wetlands, if available – e.g., seasonally flooded, saturated, etc.
    - Flooding information
- Availability of water rights, if needed

Overview of Proposed Plan:

- Statement of proposed general goals and objectives for the site(s) – e.g., restore wetland hydrology to x acres of land; create x acres of new wetland, increase habitat diversity, etc.
- Site selection criteria used
- Schematic map or drawing showing approximate locations of the project's proposed mitigation types – e.g., re-establishment, enhancement, etc.
- Brief description of targeted functions
- General description of actions proposed for the site(s)
    - Description of alterations to hydrology – e.g., removal of drain tiles and berms, filling of ditches, removal or installation of control structures, etc.
    - General locations of grading
    - General location of planting areas and targeted community types (e.g., forested, scrub-shrub, etc.)
    - Other major plan features
- Adjacent or nearby land uses that might affect the bank's function, either positively or negatively. Include future land use projections if known (see zoning codes, comprehensive plans, local land use planners). Examples of uses that might affect a bank positively include wildlife corridors, conservancy areas, refuges, vegetated open space, etc. Examples of uses that might affect a bank negatively include landfills, industrial facilities, housing developments, highways, etc.)
- Possible effects, both positive and negative, that establishment of the bank might have on adjacent land uses and nearby communities
- Any problems, site constraints, conflicts, or known risks that could impede bank development or function

- Identification of all buildings, structures, previously existing mitigation sites, and other built features that would remain on the site after the bank is constructed
- Any future structures or permitted activity proposed for the site, if known – e.g., trails, viewing platforms, fences, etc. Note that people-intensive or noisy activities – e.g., hunting, use of off-road vehicles for recreation – are generally not considered appropriate activities for bank sites.
- Summary of communications with local jurisdictions regarding agricultural designations, use of banks in that jurisdiction, etc.
- Proposed approximate service area for the bank
- Proposed permanent protection mechanism – e.g., conservation easement
- Proposed duration of construction, if known
- Main design team members and their areas of expertise

ADDITIONAL EVALUATION ELEMENTS FOR PROPOSALS:
The proposals will be evaluated by the standing members of the MBRT. Every proposal that meets the Minimum Required Criteria will then be scored based on how well it addresses the elements listed below. These are not mandatory requirements but proposals should address as many of these items as possible. If the proposed site(s) does not address a certain element, then the proposal should explain whether and/or how that deficit can be addressed through the bank design or other means.

A. Integration of Landscape Perspective

The following general background information is included to explain the use of a landscape-based approach: The functions that wetlands perform are controlled by environmental factors that occur in the broader landscape as well as within the wetland. Important factors in controlling wetland structure and functions include climate, geomorphology, the source of water, and the movement of water. These factors directly affect wetland functions, but also can have indirect influences by affecting secondary factors such as sediment, nutrients, salts, toxic contaminants, soils, and the connections between different ecosystems. The scale of the surrounding area that influences a wetland's functions can vary from a small sub-basin for a headwater slope wetland to the entire watershed of a large river system for a riverine wetland.

Much of the landscape surrounding wetlands, as well as the wetlands themselves have been altered, most significantly in urban areas. Changes in water and sediment movement, nutrient cycling and other landscape processes that affect wetlands are due to increases in impervious surface, loss of forest, channelization of streams and rivers, filling of wetlands, and other land use changes. As key processes are altered, wetland functions are commonly lost or degraded. It is important to understand and consider these changes in landscape processes in making decisions about how to best manage, protect, restore, and mitigate for wetlands.

The consequences of alterations such as increased flooding and erosion, may be partially addressed by strategically locating wetland restoration or mitigation projects, including wetland mitigation banks, so that they restore or enhance wetland functions that are in short supply and/or are of critical importance in a given watershed or drainage basin. In doing so, it is important to understand which ecological processes are most important in affecting the health of the aquatic ecosystems in the area, which have been altered, and what role wetland restoration can play in restoring ecological processes and replacing lost wetland functions.

Therefore, mitigation bank site selection and design should integrate a landscape perspective that incorporates information about the processes that provide the basis for wetland functions, as well as information on the wetlands and associated aquatic ecosystems in the watershed or drainage basin that is being assessed. Mitigation banks should be located in areas where restoration makes the most ecological sense.

In Washington State many planning efforts have focused on watershed management plans that target areas or ecosystems in need of restoration to improve habitat for salmonids and/or improve stream flow quantity

and quality. These restoration efforts often result in improving functions in wetlands associated with the targeted stream, but watershed management plans generally have not used a systematic approach to identifying the best areas for wetland restoration. Even so, they can be useful tools in assessing alterations to some of the critical landscape processes. Wetland inventories can be helpful in that they identify existing wetlands and some also target specific areas for wetland restoration. Some jurisdictions have completed landscape characterization and analysis studies that focus more specifically on describing the relative alteration of ecological processes and the consequences these alterations have for the landscape and associated aquatic resources. This type of characterization provides the underlying information needed to understand how and, at a broad scale where to protect, restore or preserve aquatic resources.

Ecology has developed a method for assessing watershed processes at a broad landscape scale, entitled *"Protecting Aquatic Ecosystems: a Guide to Puget Sound Planners to Understand Watershed Processes"*. This is a GIS-based analysis that can be done for a watershed, a Water Resource Inventory Area (WRIA), or an entire County. It is a tool that is intended for use primarily at a planning level by local jurisdictions to help in modifying zoning codes and critical areas ordinances, as well as developing resource management plans. This method is not yet in wide use in Washington and it is not our intent that bank sponsors independently apply the method as part of this proposal submittal. However, we are providing guidance on a simpler, more general approach to incorporating a landscape perspective that borrows some of the concepts from this more in-depth process. The guidance will be available in mid-April 2007 at Ecology's mitigation banking website at http://www.ecy.wa.gov/programs/sea/wetlands/mitigation/banking/public-notices.html. **Use of this guidance is not required.** The guidance is offered as one general approach that may help users identify some of the important landscape processes that influence wetlands and other water bodies, and allows for a brief assessment of the extent of alteration of those processes. There are, undoubtedly, other appropriate methods or sources of information that proposal submitters may choose to use.

Proposals can incorporate a landscape-based approach by addressing the following elements:

1. The site selection and design of the proposed mitigation banks is based on a landscape perspective. If a process-based landscape characterization/analysis has already been done for an area in which a bank proponent is interested, then the results should be consulted to help guide selection of mitigation bank sites. If no such analysis is available or in progress for an area, then other types of management plans should be consulted. Existing restoration/protection goals for the area should be taken into consideration in selecting the site(s). For example, the site(s) is located in an area that has been identified in a local planning document as a priority for wetland restoration. Include information on the specific goals that the bank would address. If no wetland restoration/protection goals exist for an area, or the existing plans do not address landscape processes that affect wetland functions, or the location or design of the bank would be inconsistent with existing goals, then proposals should use additional information (e.g., local maps) to explain why the bank is justified from a landscape perspective. Through the use of existing information, bank proponents should attempt to identify areas in which landscape processes have been degraded but could potentially be improved through wetland restoration. Guidance on one type of landscape-based approach that can be used to do this is available at http://www.ecy.wa.gov/programs/sea/wetlands/mitigation/banking/public-notices.html. Other appropriate approaches may be used instead.
2. The mitigation bank provides compensation for the general types of wetlands and functions expected to be impacted in the proposed service area. Include information on where impacts to wetland resources are anticipated to be focused in the potential service area for the bank, the general types of impacts, the types of affected wetlands, and other information related to the ecological need for a wetland bank in the proposed location.
3. Landscape position and characteristics of the mitigation bank are conducive to restoring or enhancing wetland functions that are in short supply and/or are of critical importance in a given watershed or drainage basin.

4. The proposed wetlands will be located in a landscape position where they would be expected to occur naturally as a result of the ecological processes functioning in a watershed or drainage basin.

B. Technical Feasibility/Potential for Functional Lift

5. The site(s) include existing wetlands and/or previous wetland areas that can be restored.
6. The site(s) has some level of connectivity to other habitats via vegetated corridors or adjacent water bodies. Include information on whether the offsite land that constitutes this connection is protected from disturbance and the form of this protection (e.g., conservation easement, deed protection, park land, etc.)
7. The site(s) is in close proximity to other wetlands, aquatic sites, and other habitats.
8. The site(s) has the potential for an increase in wetland function that will result in a significant amount of credit generation. It is not necessary to try and calculate the potential credit worth of the bank; generation of credit can be demonstrated through a discussion of the potential for functional lift for the wetlands on the bank.
9. The site has upland or other habitats onsite that can provide, or be enhanced to provide, buffers that are adequate to protect the intended functions of the bank for the long term.
10. The site(s) has a source of water that is sufficient to support a wetland and achieve the general goals for the bank. The water source is sustainable, relatively predictable over the long term, and does not depend on regular human manipulation. The use of engineered water control structures that require maintenance is minimal.
11. The site(s) has the necessary physical and soil features to maintain the desired hydroperiod.
12. The soil has levels of organic matter and nutrients that will support the targeted vegetation and functions.
13. The goals and objectives of the bank can be achieved without significant long term maintenance extending beyond ten years.

C. Land Use Compatibility

14. Use of the site(s) for a mitigation bank is consistent with, or at least not precluded by, existing local land use plans, zoning codes or related documents. In addition to coordinating up front with the jurisdiction in which the bank site occurs, it is advisable, though not required, that bank proponents check with all of the local jurisdictions in the proposed service area to assess the feasibility of development projects using bank credits for mitigation, particularly when the bank would occur in a different jurisdiction from the development project.
15. Bank functions are expected to have positive effects on surrounding areas (e.g., providing flood storage, enhancing habitat connectivity). If there is potential for detrimental effects to surrounding areas, describe them and explain how these can be minimized.
16. The bank has the potential to achieve multiple goals of local planners such as salmon recovery, flood control, water quality improvement, education, passive recreation, or others.
17. The site(s) is located and designed so that impacts to the proposed functions of the bank from current and potential future land uses in the contributing basin will be minimized. This could include a variety of measures such as pre-treating stormwater entering the site(s), locating the site(s) adjacent to protected lands, maximizing onsite buffer widths, designing site hydrology to minimize future changes in water level fluctuation patterns, and so on.
18. The site(s) is unencumbered by legal constraints such as easements or rights-of-way that would conflict with placing the land under long-term protection by recording a conservation easement or

other protective legal mechanism. If encumbered by legal constraints, specify how these will be addressed relative to the goals of the bank. Include information on how existing easements that cannot be vacated (e.g., overhead power lines) would affect the goals of the bank (such areas are typically not counted toward generation of credit on bank sites).

19. Disclose whether the site(s) is located in an area where legal restrictions could impose limits on the bank design (e.g., FAA restrictions near airports, historical districts, community covenants, etc.). If the area in which the bank is located does have legal restrictions, include information on how these will be addressed relative to the goals of the bank.

MITIGATION BANKING GUIDANCE RESOURCES:
The following documents are offered as potential resources for information related to mitigation banking:

Wetland Mitigation in Washington State: Part 1 – Agencies, Policies, and Guidance
http://www.ecy.wa.gov/biblio/0606011a.html

Wetland Mitigation in Washington State: Part 2 – Developing Mitigation Plans
http://www.ecy.wa.gov/biblio/0606011b.html

Dept. of Ecology Wetland Mitigation Banking Website:
http://www.ecy.wa.gov/programs/sea/wetlands/mitigation/banking/index.html

Washington Wetland Mitigation Banking Act – Chapter 90.84 RCW
http://apps.leg.wa.gov/RCW/default.aspx?cite=90.84

Federal Guidance for the Establishment, Use, and Operation of Mitigation Banks (Issued November 28, 1995)
http://www.epa.gov/owow/wetlands/guidance/mitbankn.html

Protecting Aquatic Ecosystems: a Guide for Puget Sound Planners to Understand Watershed Processes
http://www.ecy.wa.gov/biblio/0506027.html

DETAILS ON SUBMITTAL:
Any person or organization, public or private, desiring to submit a bank proposal may do so by providing a written document that is no more than 15 pages in length at a minimum of 10pt font. Maps and figures do not count toward the page limit and must be legible when reproduced in black-and-white.

Proposals must be received at both of the addresses listed below no earlier than August 13, 2007 and no later than 5:00pm on September 28, 2007.

Submit proposals by email or conventional mail to:

Attn: Gretchen Lux, MBRT Co-Chair
Washington Department of Ecology
P.O. Box 47600
Lacey, WA 98504-7600

Glux461@ecy.wa.gov

Attn: Gail Terzi, MBRT Co-Chair
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CENWS-OD-RG
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Questions regarding this public notice may be addressed to either of the MBRT Co-Chairs listed above.