

Habitat Banking Business

Craig Denisoff

Environmental Business Partners

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Federal Laws that Regulate Impacts to Wetlands and Species ("the Market Driver")

- Section 404 of the Clean Water Act (404)
 - Policy: "No Net Loss"
- The Federal Endangered Species Act (ESA)
 - Protecting species from "Take" and "Jeopardy"

State Environmental Laws ("the other Market Drivers")

- State Endangered Species Act
 - Listed Endangered/Threatened Species
 - Special Status Species
- Water Quality Laws (wetlands/WQ)
- Environmental Quality Acts/Laws
 - Agricultural preservation
 - Trees/Vegetation (e.g., CA Oak trees)
 - Special Status Species

The Habitat Banking Concept

- Mitigation/Conservation Banks: Large, pre-established areas, restored and preserved to compensate for impacts to habitats/species.

- **Large preserve size**
- **Upfront Implementation**
- **Biological Performance Standards**
- **Land Stewardship**
- **High Quality Watershed/Species Recovery Design**



The Habitat Banking Concept

- Economic Advantages:
 - **Severance of Liability**
 - **Lower Costs (Economies of Scale)**
 - **Reduces Mitigation Permitting Time**
 - **Lowers Mitigation Uncertainty (Ratios)**



Habitat Banks:

Who, What, Where, When and Why

- Who can buy credits? Any developer, public agency, group, or individual having mitigation needs.
- What types of credits? Wetlands (seasonal, riparian, tidal, forested) and endangered species

Habitat Banks:

Who, What, Where, When and Why

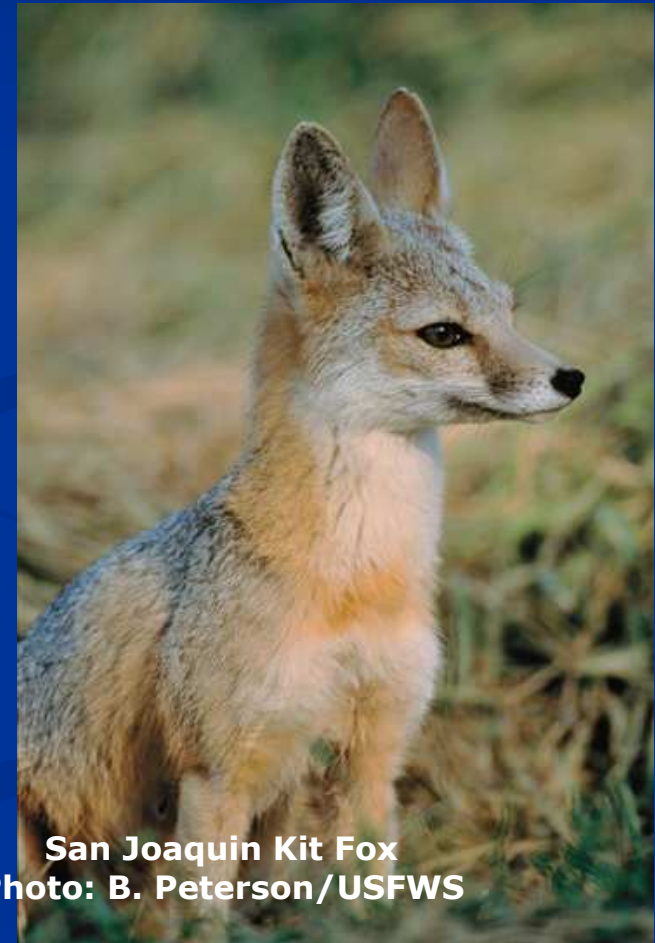
- Where can I sell credits? Within a specified geographical service area (wetlands – watershed; ESA – range of species).
- When can I sell credits? Over time as ecological success is demonstrated.
- Why can I sell credits? Because biological, legal and financial Assurances are built into the project.

Habitat Bank Components

- Approval by a team of regulatory agencies
- Legally binding agreement in perpetuity
- Biological, financial, and legal performance standards and guarantees
- Biological monitoring and reporting
- Quantifiable biological units or “credits”
- Outside verification and review
- Implement no-net loss/species protection and recovery

Legal and Administrative Requirements

- Bank Instrument
- Conservation Covenants
- Reporting Requirements
- Bank Closure Plan
- Performance Guarantees
- Financial Guarantees
- Compliance Monitoring



San Joaquin Kit Fox
Photo: B. Peterson/USFWS

Mitigation Banking Business:
“The Balance of
Business & Biology”



Site Selection

- Position in Watershed/Species Range
- Site Criteria
 - Wetlands:
 - Hydrology
 - Soil
 - Vegetation
 - Species Presence/Recovery Area
- Surrounding Land Use
- Watershed or Species Recovery focus

The “Business”

- Market
- Customers
- Business Environment
- Competition
- Financial Models

**Capital + Expertise +
Opportunity = Success**

(Opportunity = Client + Reg Envir. + Site)



Support for Mitigation Banking

- National Academy of Science: Rethink preference for “on-site” mitigation and banks are a good method to address no net loss (01”)
- Congressional actions to support/promote use of mitigation banks (03”)
- Society of Wetlands Scientists support use of mitigation banks to meet no net loss (04”)
- Academic publications supporting large-scale ecosystem and watershed for species

Habitat Banking Status

- Over 500 wetland mitigation banks in U.S. (05’)
- Approx. 70 to 100 species banks
- 33% of mitigation market goes to wetlands banks (approx. 12,000 to 15,000 acres yr.)
- Estimated \$200-\$300 million gross revenues yr.
- Challenges: Inconsistent regulations, public perception and lower quality mitigation alternatives (e.g., In-Lieu Fees-HCP’s)
- HOPE: New Proposed Fed. Mitigation Rules

Lessons: Foundations of Habitat Banking Market

- Strong Demand Driver
 - Clean Water Act, Endangered Species Act
- Generally Accepted Unit of Measurement
 - 87 Corps Manual, ESA species-habitat relationship
 - Simple, measurable, repeatable
- Compliance Monitoring
 - Certainty to clients
- Economic and Ecological Benefits