



NATIONAL MITIGATION BANKING ASSOCIATION

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President's Corner

On the heels of a very successful Fall Trip to Washington, DC, I am pleased to report that a bill has been introduced in Congress that would provide for capital gains tax treatment on the sale of mitigation credits. HR 3609 was introduced and co-sponsored by Congressman Melancon Louisiana, Congressman Tanner of Tennessee, Congressman Boustany of Louisiana and Congressman Kind of Wisconsin. I want to thank David Urban, Mike McCollum, Ann Redmond, George Platt, Elliott Bouillon, Wayne White, Randy Wilgis, Ben Guillon and Don Ewodt for taking time out of their busy schedules to come to DC to build support for H.R. 3609. I particularly wanted to thank the NMBA Legislative Chair, Elliott Bouillon, for his leadership and for the work of his company in spearheading the effort on H.R. 3609. We still have a lot of work to do on this bill and I urge you all to approach your Congressmen and Senators and seek support for this bill.

Wayne White and Randy Wilgis, Co-Chairs of the Emerging Markets Committee, also have worked hard in crafting a white paper that outlines the NMBA's position on how to improve conservation banking throughout the United States. This position paper, among other items, was discussed at the recent Fall Trip to Washington with members of the US Fish and Wildlife Service and the Department of the Interior. Based on those meetings, we now have real opportunities to help shape federal policy on conservation banking. Moreover, the NMBA, in conjunction with some of its individual members, is funding and sponsoring a conservation banking training program for the resource agencies.

David Urban, Chair of the Rules Subcommittee, is collecting information on existing issues in the Corps Districts relating to the implementation of the new federal mitigation rules. The subcommittee also worked with NMBA counsel in drafting a comment letter on in-lieu fees and is filing a freedom of information request to targeted Corps Districts on issues relating to rule implementation.

Sheri Lewin, Chair of the State and Regional Liaison Subcommittee, has been reaching out to a number of emerging state mitigation banking associations throughout the country to assess the appropriate level of interaction between the NMBA and the state associations. She also is assembling a list of issues that occur at the state level that have national implications to the mitigation banking industry.

Steve Collins, Chair of the Membership Committee, continues to add to the current roll of members. By virtue of that committee's work, we now have over 68 dues paying members that enable the NMBA to undertake all of the aforementioned activities. In that vein, we urge you to renew your membership to secure another year of benefits and to ensure the continued growth of our industry.

Ann Redmond, Chair of the Communication Committee, is working hard to update the NMBA website and to have it serve as a forum for interactive communication, among other items.

Last but not least, our counsel, Peggy Strand of Venable, continues to be the guiding light for all of the above mentioned activities.

I am most grateful for the strong commitment of our members. It is the work of all of you and those particularly mentioned above that makes the NMBA such an effective organization. Let's continue to build on our successes and grow our "green" industry.

A handwritten signature in black ink that reads "George W. Kelly".

George W. Kelly
NMBA President

News from Washington

We now have an introduced bill, H.R. 3609, that would clarify the tax treatment of credit sales as capital gains rather than ordinary income. Many thanks are due to the Association members who worked so hard to get this bill introduced. Now it is your turn: please continue to express your support for H.R. 3609, through letters, calls, faxes to your members of Congress. Contact me if you need help with this.

The Association continues to work on fair implementation of the 2008 Mitigation Regulations. In October, 2008, a letter went to the EPA and the Corps (and all Corps Districts) urging the agencies to assure that "grandfathered" in lieu fee programs meet the new regulatory standards. Pre-existing in lieu fee programs were allowed 2 years to comply. Since we have passed the one year mark, the Association wanted to be on record stating the importance of meeting the 2 year deadline. The letter is posted on the Association's website.



We also continue efforts to assemble and work through concerns over how the Regulations are being applied to bank applications and credit release requests. Association members should provide information to the Rules Committee, so that implementation issues can be tracked for the benefit of all members.

Congress will be busy for some time with health care, financial reform and economic issues associated with the bail outs and the recession. However, our issues – and other environmental issues – remain very important in Washington, D.C.

If you have any questions or need more information, contact Peggy Strand, mstrand@venable.com

Enhancement of conservation banking remains an Association priority. In October, the Association approved a set of recommendations for implementation of conservation banking, these can be found on the Association's website. These policies were well received when presented to officials of the U.S. Fish and Wildlife Service and should mesh with the Administration's desire to advance the use of conservation banks.

It is appearing unlikely that a Clean Water Restoration Act will pass in 2009 to reverse the jurisdictional confusion from the SWANCC and Rapanos Supreme Court decisions. In the Senate, the bill is not yet scheduled for a floor vote. In the House, Chairman Jim Oberstar has not yet introduced his version of the bill.



October D.C. Visits



Left to Right: Dan Spethman, Wayne White, George Platt, Elliot Bouillion, Congressman Charlie Melancon, Dave Urban, George Kelly, Ben Guillon, Sam LeBlanc

Between October 20 and 22, 2009 a small, energetic band of Association members visited over 25 Congressional and Administration members to advocate for key Association interests. The sessions were focused on two topics: enhancement of conservation banking and support for H.R. 3609, a bill that would clarify that sale of credits qualifies for capital gains treatment. What a whirlwind we had!

The Congressional offices were supportive of the idea that mitigation banking credits should have the tax treatment that H.R. 3609 would provide. We had a chance to meet with Congressman Charlie Melancon, sponsor of the bill, over breakfast and express our appreciation for his leadership.

Many Congressional offices continue to need education on the mitigation and conservation banking business. The Association encourages all members to "get involved" and let your elected representatives

know about the work you are doing to help the economy and the environment.

We were welcomed in meetings with the Deputy Assistant Secretary and others in the Department of the Interior and the Deputy Director of the Fish and Wildlife Service (with 6 key program heads) to advance the business of conservation banking. Thanks to the work of many Association members over the past years, these officials understand the important role of conservation banking and are taking steps at the headquarters level to advance its use. The Association will assist the government with upcoming conservation bank training, and the government is planning to name conservation banking "point people" in each region, to help facilitate banking issues. The Association's policy paper to advance conservation banking was well received, and we will continue to work with the Interior Department personnel on implementation.

Many thanks to the Association volunteers who spent their time (and money) to work on these tax and conservation banking issues in D.C. in October. Pulling together, we can achieve success.



Member Milestones

RESOURCE ENVIRONMENTAL SOLUTIONS, LLC

PHASE I OF NEW MITIGATION BANK RESTORES OVER 280 ACRES OF WETLANDS IN THE LAKE CHARLES AREA

Baton Rouge, Louisiana, October 5, 2009: Third Louisiana Resource, LLC (TLR) a subsidiary of Resource Environmental Solutions LLC (RES) today announced the approval of Phase I of the Petit Bois Mitigation Bank, located in Cameron Parish, Louisiana. The U.S. Army Corps of Engineers New Orleans District has signed off on Phase I of this multi-phase mitigation bank that initially delivers over 263 acres of bottomland hardwood restoration and over 16 acres of baldcypress/tupelo swamp ecosystem re-establishment in the primary watershed identified by U.S.G.S. Hydrologic Unit Code 08080206. A portion of the bank is located within the Coastal Wetlands Conservation (CWC) Plan boundary.

The primary watershed serviced by the Petit Bois ("Little Wood") Mitigation Bank contains much of the city of Lake Charles, including the entire southern area which has experienced significant growth especially south of the I-210 Loop, and the entire city limits of Sulphur and West Lake, both major industrial areas.

As more of the service area is developed for agricultural, industrial, commercial and residential uses, the Bank will provide significant functional value through the reduction of flooding and point source pollution within the Calcasieu Drainage Basin.

Phase III Approved -- Over 500 Acres of Restored Wetlands Added to Black Bayou Mitigation Bank

Baton Rouge, Louisiana, October 1, 2009: Second Louisiana Resource, LLC (SLR) a subsidiary of Resource Environmental Solutions LLC (RES) today announced the approval of Phase III of the Black Bayou Mitigation Bank in northeast Catahoula Parish, Louisiana. With this phase, an additional 521 acres of bottomland hardwood restoration, over 40 acres of hardwood enhancement and over 22 acres of bottomland hardwood preservation increase the Bank size to offer over 1,000 acres of wetland mitigation credits and over 100 stream restoration credits. Future wetland restoration activities are planned for this 2,132 acre site.

Resource Environmental Solutions Announces Award of Restorative Planting Services by Midcontinent Express Pipeline

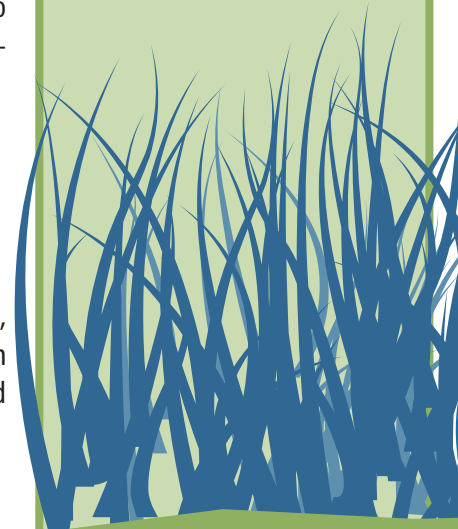
Ecological Restoration Services, LLC, ("ERS") a subsidiary of Resource Environmental Solutions, LLC of Baton Rouge, LA, has been awarded a contract by Midcontinent Express Pipeline LLC to provide Post Construction Restoration Services. ERS will replant approximately 120 acres of disturbed wetlands along 285 miles of pipeline in Louisiana and Mississippi.

SAVE THE DATE 2010 ANNUAL CONFERENCE

MAY 3-6, 2010
HILTON AUSTIN
AUSTIN, TEXAS



www.mitigationbankingconference.com



Member Milestones

Westervelt Ecological Services

Mitigation Bank Completes 6,000 Acre Ecological Restoration

Sacramento, CA – The Cosumnes Floodplain Mitigation Bank has been approved as a formal mitigation bank to provide credits related to riparian, perennial, and seasonal wetlands and vital flood control projects in Sacramento and surrounding counties. The 472-acre bank is located at the confluence of the Cosumnes and Mokelumne Rivers in southern Sacramento County.

Restoration will include replanting riparian forest vegetation and contouring backwater channels into the site, as well as breaching the levee on the Cosumnes River to restore natural hydrology and tidal influence to the property. This bank occupies one of the most ecologically valuable and prized sites in the Sacramento area due to its location adjacent to The Nature Conservancy's Cosumnes Preserve and other key nature preserves in the area.

"This wetlands restoration project is a once in a lifetime opportunity. It is an extremely large site to be converted back to native riparian and wetlands habitat, and fills in the last major piece of the nearly 6,000-acres protected along the lower Cosumnes River corridor. Floodplain restoration projects in the Central Valley rarely have this type of direct hydrological connection with the associated river systems. A project of this scale would have been considered highly valuable if it had just one of these variables," said Hal Holland, project coordinator for Westervelt Ecological Services, the organization responsible for creating the bank.

The Cosumnes Floodplain Mitigation Bank was approved by environmental regulatory agencies such as the U.S. Army Corps of Engineers, U.S. Environmental Protection Agency, and California Department of Fish and Game. Mitigation banks provide enhanced environmental benefit over smaller, piecemeal mitigation and have extensive biological, financial and legal assurances to ensure mitigation success. In addition, banks provide economies of scale, reduced permitting time and costs, and severance of liability to public and private sector developers.



CFP ANNOUNCEMENT

Restore America's Estuaries is pleased to announce the Call for Dedicated Sessions, Presentations, and Posters for the 5th National Conference on Coastal and Estuarine Habitat Restoration—Preparing for Climate Change: Science, Practice, and Policy.

This is the only national conference that focuses exclusively on coastal habitat restoration, and we invite you to be a part of it! The Conference Program will address all aspects of coastal and estuarine habitat restoration, in all habitats, at all scales, and all regions.

Every facet of restoration will be affected by climate change. Because of its power to effect change, restoration can be a key element on an adaptive or mitigating strategy in facing climate change that cuts across all disciplines. As such, the topic of climate change will be interwoven throughout the Conference and will serve as a unifying element.

The Conference will be held November 13-17, 2010, at the Galveston Island Convention Center, Galveston, Texas. The deadline for all proposals is March 2, 2010. For more information and to submit a proposal, visit: <http://program.estuaries.org>.

Member Milestones

Westervelt Ecological Services

GOPHER TORTOISE CONSERVATION BANK ESTABLISHED IN MISSISSIPPI

Tuscaloosa, Ala. – Ever wonder if the pine trees dotting the roadside across the southeastern United States are longleaf, loblolly, or any of the other 125 possible species of pine growing worldwide? If you say no, you're not alone. After all, a pine tree is a pine tree right? Hardly.

The habitat created beneath the canopy of a pine forest is home to many plants and animals. And though they cannot verbalize the differences, their reaction to one versus another is profound: they either thrive or they die.

Take, for instance, the gopher tortoise. The burrowing reptile requires sandy soil for digging shelter, plenty of sunlight for basking, and herbaceous dietary needs sustainable at ground level from native grasses, flowers, fruits, and berries.

A longleaf pine forest promotes this type of habitat through a variety of naturally-occurring ecological checks and balances, the primary of which is fire. As an element, fire's effects are critical for controlling excessive underbrush development, which prevents sunlight from reaching the forest floor and essentially suffocates life at ground level.

Modern culture's ability to prevent and extinguish fire, understandably in the name of safety, has unknowingly had a negative impact on naturally fire-resistant longleaf pine forests.

The rapid decline of habitat has placed the gopher tortoise, as well as the red cockaded woodpecker and carnivorous

pitcher plants on the endangered species list. Without human intervention, the threat of extinction is a probable reality.

Approved on September 17, 2009, Chickasawhay Conservation Bank (CCB) has been developed to restore and maintain in perpetuity longleaf pine forest on its 1,220 acres in Greene County, Mississippi. The bank integrates roughly 250 tortoises from impacted sites in Alabama west of the Tombigbee River, and east of the Hattiesburg, Mississippi, area.

Despite declining habitat, the bank remains home to a few native tortoises. With limited chance of reproduction – tortoise reach sexual maturity between ages 10 and 15 – the colony will disappear without additional population and improved habitat.

"Fortunately, improvements will be recognized rapidly with the introduction of prescribed burning," said John McGuire, project manager for CCB.

McGuire said non-native invasive species such as cogon grass and red-imported fire ants will also be controlled to assist in the recovery of the gopher tortoise. Additionally, resident and transient tortoise will be tested for the presence of Upper Respiratory Tract Disease (URTD), a fatal infection first discovered in 1991 amongst populations in Sanibel Island, Florida, to prevent its spread to the bank.

"Our goal is to restore and maintain a longleaf pine habitat by using natural

controls like fire and the reintroduction of native plants. This restored habitat will allow the resident gopher tortoise to flourish. Additionally, relocating gopher tortoises from impacted sites to the CCB will hopefully increase the opportunity for more baby tortoises in the near future," he said.

Land developers whose proposed projects negatively affect a species – in this case it would be the gopher tortoise – may buy mitigation credits in an approved and permitted conservation bank. Conservation banks ensure a large habitat relevant to the impacted area will be restored and maintained in perpetuity.

For additional information on credit sales, please contact John Wigginton, Southeast Regional Manager, at jwigginton@westervelt.com, or visit www.wesmitigation.com.

NMBA NEWS

2010 Membership Invoices have been sent out, please pay your dues by January 20, 2010. If you have any questions about your membership invoice, please call NMBA at 407.496.1830.



Member Milestones

GREENVEST, LLC NEW MITIGATION BANK & TURNKEY MITIGATION

FLAT SWAMP MITIGATION BANK

Federal and state regulatory agencies approved the 775-acre Van Vleck Ranch Mitigation Bank on April 13, 2009 to sell mitigation credits for the federally listed vernal pool fairy shrimp and Swainson's Hawk. Located in eastern Sacramento County, adjacent to Rancho Murieta, the historic Van Vleck Ranch has been owned and operated by the Van Vleck family for over 150 years. Cattle ranching will continue as an approved use on the site.



TURNKEY MITIGATION

Impacts made to wetlands and streams in the Black Warrior - Tombigbee River Basin can be mitigated in Tuscaloosa County's Big Sandy Mitigation Bank. The 1,060-acre site, adjacent to Talladega National Forest, was approved on April 14, 2009 to sell mitigation credits requested by federal and state regulatory agencies.



RECENT APPOINTMENTS

Greenvest President and CEO, Doug Lashley has been appointed to the staff at the University of Maryland School of Architecture, Planning & Preservation. During the Fall 2009 semester, he will be lecturing at the Graduate School of Real Estate Development. Starting with the Spring 2010 semester, Mr. Lashley's course offering will be Utilizing Eco-Asset Markets to Advance Sustainable Development.

State Liaison Subcommittee

The State Liaison Subcommittee has been exploring the opportunity to create alliances with state or regional associations with similar interests or goals. In recent conference calls with leadership from the North Carolina Environmental Restoration Association (NCERA) and the Georgia Environmental Restoration Association (GERA), the subcommittee gathered feedback on various avenues for collaboration in which the NMBA and these groups might mutually benefit. A recent example is NMBA's distribution to NCERA and GERA members of the HR 3609 support letter related to capital gain tax treatment of mitigation credit revenue, thus amplifying our voice of support beyond just NMBA membership.

In addition, the State Liaison Subcommittee is reviewing issues or challenges faced by NMBA members that are unrelated to the New Federal Mitigation Rule. The committee solicited input from members and will prioritize issues that meet criteria to warrant the NMBA's participation. If you have ideas or issues for the State Liaison Subcommittee to consider, please contact Sheri Lewin at sheri@erm-consultingservices.com.

Mitigation Resource Group

Mitigation Resource Group recently combined their sales division with 2 other mitigation banking companies. They now handle the sales for 24 approved or pending mitigation banks with over 3.8 million stream credits. Mitigation Resource Group currently has credits available in the Upper Chatt., Middle Chatt., Etowah, Upper Savannah, Lower Savannah, Upper Flint, Lower Flint, Ohoopsee, and Upper Ocmulgee. Please reference their new website, www.georgiamitigationcredits.com for more information.

Brick Road Mitigation Bank

Brick Road Mitigation Bank in Flagler County, Florida received final US Army Corps approval in August 2009. Brick Road Mitigation Bank is the first bank to receive a final MBI from the Jacksonville District since the New Federal Rules were enacted in June 2008. Represented by Environmental Resource Marketing, this 3,000 acre bank has freshwater Forested and Herbaceous credits for sale.

Ramsar Release

First Mitigation Bank Recognized by Ramsar as Wetland of International Importance

The Wetlandsbank Group (wetlandsbank.com), is proud to be acknowledged for another milestone reached by the Mitigation Banking Industry. Our Panther Island Mitigation Bank (pantherisland.blogspot.com), project, undertaken by a partnership consisting of the Barron Collier Companies, The Wetlandsbank Group, and key current and former owners of WilsonMiller, has become the first wetland mitigation bank to be certified as a Ramsar Wetland of International Importance in its association with Audubon of Florida's Corkscrew Swamp Sanctuary (corkscrew.audubon.org), home of the largest stand of bald cypress trees in the world.

Panther Island contributed over 2,700 acres of restored lands, together with management funding in perpetuity, to the Audubon Sanctuary in Southwest Florida. PIMB provided vital dry season feeding areas for the endangered Wood Stork, as well as extensive areas of restored Florida Panther habitat.

"This designation underscores the importance of protecting and preserving our wetlands around the world," said John Flicker, President of the National Audubon Society; "These wetlands are essential not only to birds and other wildlife, but provide natural flood protection for humans and their homes."

"It is a great honor for Panther Island to be the first mitigation bank to be designated," added Stephen M. Collins, CEO of The Wetlandsbank Group and chairman of the PIMB management committee. "In addition, we are grateful to Audubon for their partnering spirit and strategic vision. This project demonstrates the power of not-for-profits and private enterprise working together for the benefit of the environment."

First adopted in the Iranian city of Ramsar in 1971, the Ramsar Convention on Wetlands is an intergovernmental treaty that provides the framework for national action and international cooperation for the conservation and wise use of wetlands and their resources. The Convention's mission statement commits the State Parties of the Convention to "the conservation and wise use of all wetlands through local, regional and national actions and international cooperation, as a contribution towards achieving sustainable development throughout the world" (www.ramsar.org).



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After Restoration

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The hiring of a lawyer is an important decision that should not be based solely on advertising. Before you decide, ask us to send you free written information about our qualifications and expertise.

The advertisement for GreenVest features a background image of a person wearing a green jacket and waders, walking through a wetland area with tall grasses and water. The GreenVest logo is in the top right corner, with the tagline "One Step Ahead." Below the logo, the text reads: "GreenVest, a leader in ecological resource management, development and brokerage." At the bottom right, the contact information is provided: "726 Second Street, Suite 3B, Annapolis, MD • 410-268-7422" and "www.greenvestus.com".

GreenVest
One Step Ahead.

GreenVest, a leader in ecological resource management, development and brokerage.

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