



# Conservation Banking

## *Incentives for Stewardship*

Conservation banks are permanently protected lands that contain natural resource values. These lands are conserved and permanently managed for species that are endangered, threatened, candidates for listing, or are species-at-risk. Conservation banks function to offset adverse impacts to these species that occurred elsewhere, sometimes referred to as off-site mitigation. In exchange for permanently protecting the land and managing it for these species, the U.S. Fish and Wildlife Service (FWS) approves a specified number of habitat or species credits that bank owners may sell. Developers or other project proponents who need to compensate for the adverse impacts their projects have on species may purchase the credits from conservation bank owners to mitigate their impacts.

Conservation banking offers opportunities for a variety of landowners through preservation, enhancement, restoration and/or establishment of habitat for species. Lands used for ranching, farming, and timber operations or similar agricultural purposes can function as conservation banks if they are managed as habitat for species. Degraded habitat, such as retired croplands or orchards, may be restored. Linear areas or corridors, such as stretches of streams and their associated riparian habitat that link populations of species, may also qualify as conservation banks.

### Who benefits?

A conservation bank is a market enterprise that offers landowners incentives to protect habitats of listed species, candidates, and other species-at-risk. Landowners can profit from selling habitat or species credits to parties who need to compensate for adverse impacts to these species. Landowners can generate income, keep large parcels of land intact, and possibly reduce their taxes.

Developers and others whose activities result in adverse environmental impacts typically are required to compensate for such impacts. Providing



*The 1200 acre Wilson Valley Mitigation Bank, Riverside County, California.*

Michelle Morgan/USFWS

compensatory habitat off-site is often the best solution. However, it can be difficult for individual project proponents to locate appropriate lands and costly to restore, protect, and provide for the long-term management of these lands. Conservation banks provide a simple, economical alternative for developers and other project proponents. A one-time purchase of credits saves developers time and money and provides regulatory certainty.

Conservation banking benefits species by establishing large reserves that function as compensatory mitigation areas for multiple projects. It costs less per acre to manage a conservation bank than the equivalent acreage divided among many small isolated mitigation sites. Larger reserves are more likely to ensure ecosystem functions, foster biodiversity, and provide opportunities for linking existing habitat. In coordination with other tools, this collaborative, incentive-based approach to conservation may aid in the recovery of listed species.

Conservation banking also benefits the public by protecting open space and contributing environmental services such as nutrient recycling, pollination services, and climate regulation.

Conservation banking works best in concert with regional conservation planning where the community is involved in determining which areas are conserved and which are developed to achieve a healthy environment and economy.

### Background

Conservation banking for federally-listed species has its roots in wetland mitigation banking. In the early 1990s, the FWS began working with other Federal agencies to establish wetland mitigation banks. In 1995, the final policy on wetland banking, *Federal Guidance for the Establishment, Use, and Operation of Mitigation Banks*, was published (60 FR 58605-58614). In that same year, the State of California established a policy to promote regional conservation by encouraging a second generation of mitigation banks, called conservation banks, to preserve existing habitats. In the early 1990s, The FWS began approving conservation banks for a variety of federally-listed species, often in cooperation with other Federal agencies and the State of California, in the early 1990s. As of January 2009, more than 90 conservation banks have been approved by the FWS, most of them in California.

In May 2003, in what has been termed “a hallmark event in the 30-year history of the Endangered Species Act,” the FWS issued the first comprehensive Federal guidelines designed to promote conservation banks as a tool for mitigating adverse impacts to species. Although no two banks will be developed or used in an identical fashion, the guidelines foster national consistency by standardizing establishment and operational criteria. A copy of the guidance is available at <http://endangered.fws.gov/policies/conservation-banking.pdf>.

### **What lands are eligible?**

Private, Tribal, State and local government lands are eligible to become conservation banks. Federal lands may require special consideration concerning applicability of the lands for mitigation purposes and review and approval by the FWS for consistency with other regulations and policies. Generally, lands previously designated for conservation purposes through another program are not eligible unless designation as a bank provides an additional conservation benefit to the species. Before the FWS can approve a conservation bank, landowners are required to:

- enter into a Conservation Banking Agreement with the FWS;
- grant a conservation easement to an eligible third party, precluding future development of the property and restricting certain land uses;
- develop a long-term management plan for the conservation bank; and
- provide funding for monitoring and long-term management of the conservation bank.

In return, the FWS approves landowners to sell a specified number of credits to project proponents requiring mitigation for species that occur on the conservation bank and are within the bank’s designated service area.

### **What is a conservation easement?**

A conservation easement is a legal contract between the landowner (grantor) and the easement holder (grantee) in which the landowner gives up certain development rights and agrees to certain restrictions on the property. Public agencies, land trusts, and other nonprofit conservation organizations are typical groups that States authorize to hold

conservation easements. Restrictions on the property may include a reduction in the number of livestock that may be grazed, prohibition of recreational off-road vehicle use, or prohibition of construction of new roads and buildings. Any activities inconsistent with the purposes of the conservation bank are restricted under the easement. Because perpetual conservation easements are binding on future owners, the resource values of these properties are protected in perpetuity. Many States and local governments offer tax benefits associated with this type of property encumbrance.

### **What is a management plan?**

A management plan identifies tasks for operating and maintaining a bank site as well as methods for monitoring and maintaining desired habitats for species. A management plan may include removing trash on a regular basis, mending and replacing fencing, monitoring the listed species or habitat conditions, controlling invasive species that interfere with the naturally functioning ecosystem, conducting prescribed burns, and other activities to maintain the habitat. A management plan is long-term, requires careful development, and should take into account any foreseeable changes that may affect property management. A management plan should be as specific as possible, but flexible enough to allow changes in management practices in response to monitoring results.

### **How is management funded?**

Most often an endowment is established to fund the long-term management of the conservation bank. The endowment is an interest-bearing account in an amount sufficient to generate enough yearly income to fund the annual management of the conservation bank. Since only the interest is available for use and the principal is not withdrawn, the endowment is “non-wasting,” providing a perpetual source of funding for management of the conservation bank. The endowment may be funded in full at the time of conservation bank approval or in increments, but should be fully funded within five years.

### **What are credits?**

Credits are units on the conservation bank representing listed species, candidates, and other species-at-risk, or habitat for those species. A credit may be equivalent to:

- (1) an acre of habitat for a particular species;
- (2) the amount of habitat required to support a breeding pair;
- (3) a wetland unit along with its supporting uplands; or
- (4) some other measure of habitat or its value to the listed species.

Methods of determining available credits may rely on ranking or weighting of habitats based on habitat condition, size of the parcel, or other factors.

### **What is a service area?**

The service area for a conservation bank is the area outside the bank property within which the bank owner may sell credits. The FWS determines service areas for conservation banks based on physical and ecological attributes such as watersheds, soil types, species recovery units, and/or species and population distributions. Banks with more than one type of credit may have different service areas designated for different credit types.

### **What projects are eligible?**

Only projects that would otherwise be permitted and are suitable for off-site mitigation may use conservation banks. The species and habitats for which the project proponent requires mitigation must be present at the conservation bank. Conservation banking is not a substitute for avoiding and minimizing effects on listed species on-site. The purpose of conservation banking is not to encourage development of listed species’ habitats, but rather to provide an ecologically effective alternative to small on-site preserves which are not defensible.

### **Contact Us**

If you would like more information on conservation banking, please contact the FWS Regional Office with responsibility for the State or Territory in which the project is being proposed. A map of our Regional Offices can be found at <http://offices.fws.gov/directory/listofficeregion.cfm>

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**January 2009**