

# Planning Board Meeting

Proposed Central New York Wetland Mitigation Bank

May 31, 2017

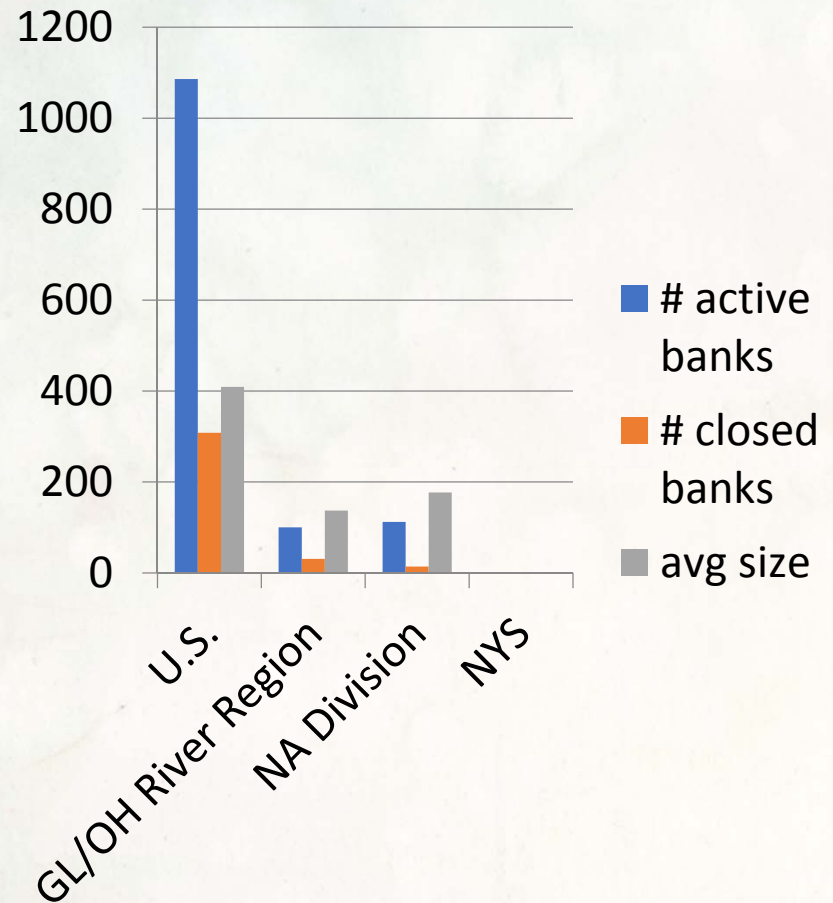


# CNYRPDB Mitigation Interests

- Why consider stream and wetland mitigation –  
Planning Economic Development in concert with  
Environmental Stewardship
- What exactly is stream and wetlands mitigation –  
Biophysical enhancement and restoration  
Regulatory process to guide resource stewardship
- Where could this be accomplished –  
Mitigation can be used in a defined watershed  
The geographic boundaries are predefined

## Presentation Purpose

- To stimulate discussion regarding efficacy of wetland mitigation banking in NY
- Mitigation banking has not flourished in NY
- Does lack of banks limit economic development?
- Does this optimize protection of the resource?

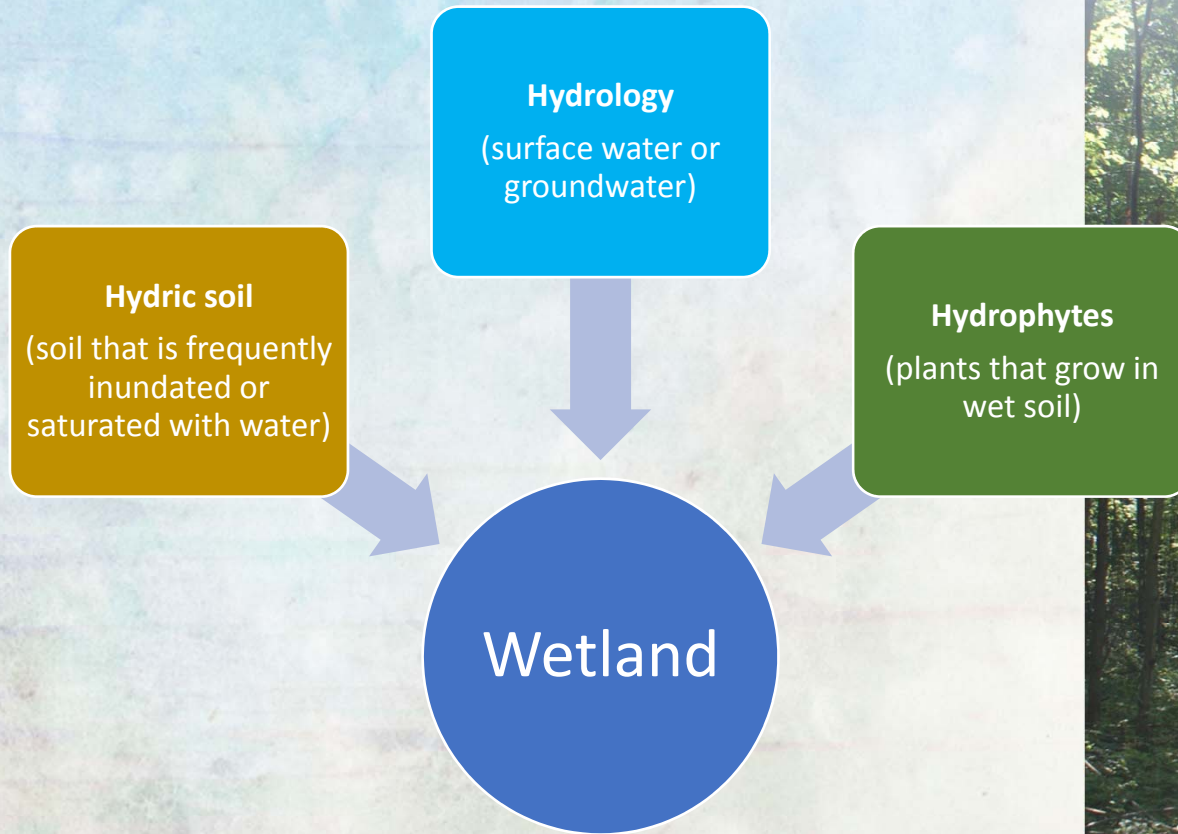


## Economic development is linked to environmental stewardship

- Demand analysis indicated 5 acres/year of Waters of the US compensatory mitigation needed in watershed service area
- NYS Waters are much more extensive and not included.
- NYS offset options are treated individually, expensive, and are a barrier to economic development while acres remain degraded.
- Local development plans and proposals also suggest potential need for wetland mitigation

*What in the world is wetlands mitigation?*

# What is a *wetland*?



# What are wetland *benefits*?



- Flood and storm control
- Wildlife habitat
- Groundwater protection & recharge
- Recreation
- Pollution treatment
- Erosion control
- Education and research
- Open space and aesthetic value
- Nutrients for freshwater food cycle
- Fish nursery grounds and sanctuaries

## What is *wetland mitigation*?

- Wetlands are protected by federal and state laws
- Proposed impacts to wetlands must be avoided, then minimized
- Unavoidable impacts must be ***mitigated***, or compensated for
- Accomplished by wetland creation, restoration, enhancement, and preservation
- Goal is no net loss of wetland functions and values (benefits)
- Mitigation plan developed through federal and state permitting processes



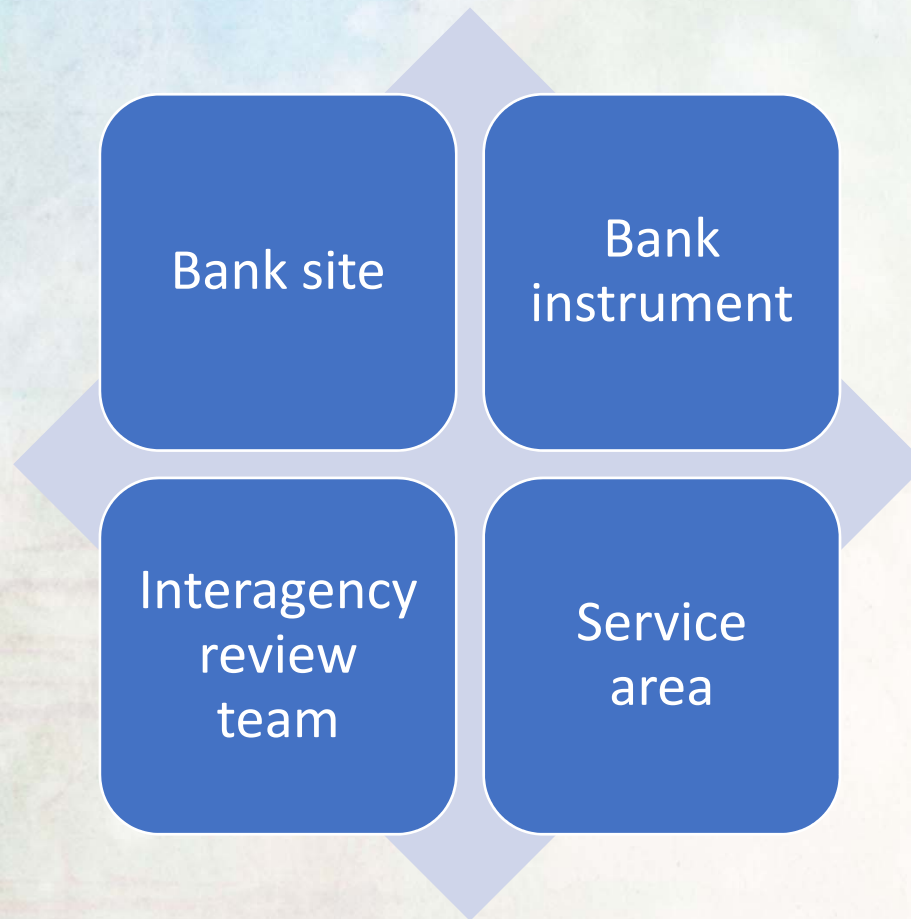


*What is a wetland mitigation  
bank?*

## Federal definition of wetland mitigation bank

*A wetland, stream, or other aquatic resource that has been restored, established, or (in certain circumstances) preserved for the purpose of providing compensation for unavoidable impacts to aquatic resources permitted under Section 404 or a similar state or local wetland regulation. A mitigation bank may be created when a government agency, nonprofit organization, or other entity undertakes these activities under a formal agreement with a regulatory agency.*

## 4 distinct components of a mitigation bank



## Bank site



- Physical acreage restored, established, enhanced, or preserved



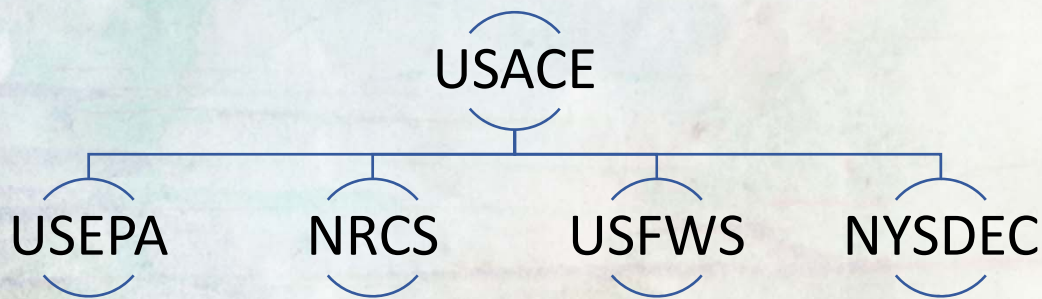


# Bank instrument

legal agreement between bank owners and regulators

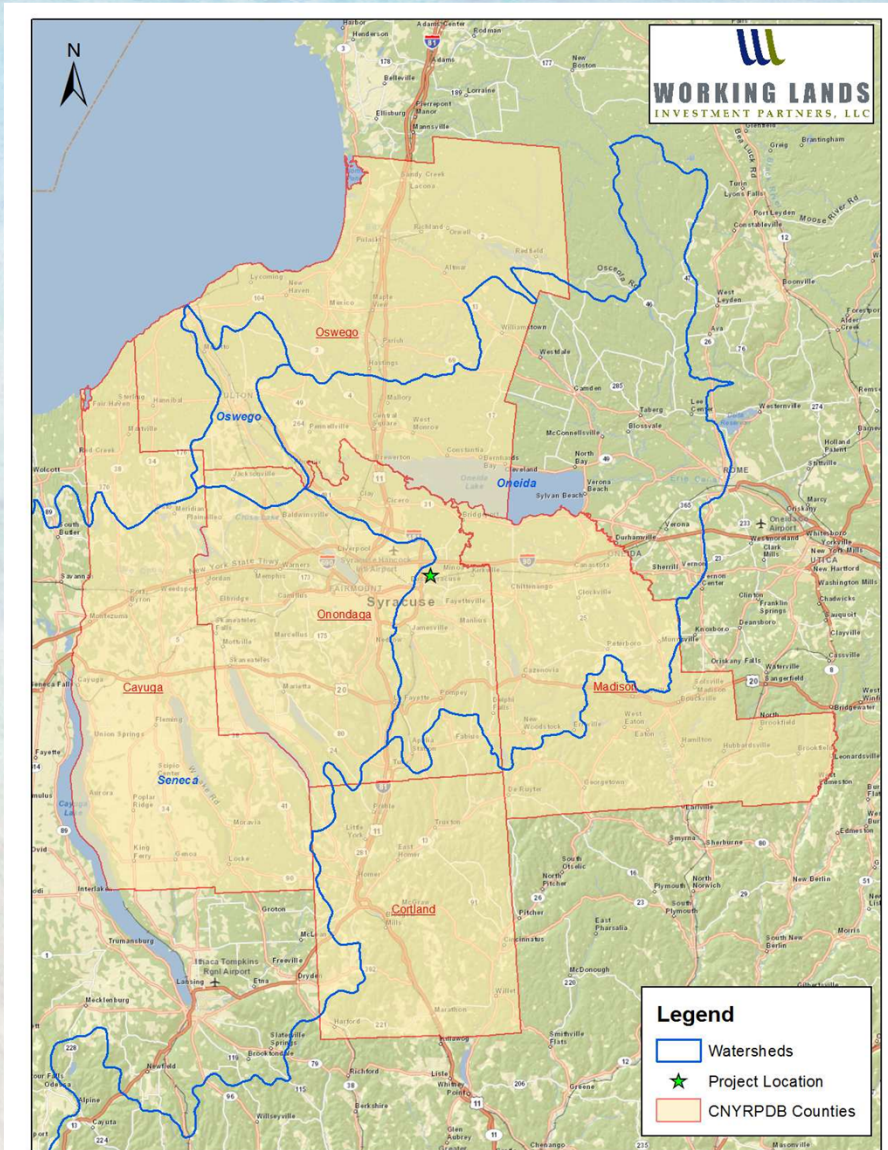
- Bank name, location, sponsor
- Bank objectives
- Site selection factors
- Proposed service area
- Sponsor's legal responsibility
- Site conditions
- Mitigation work plan
- # and type of credits
- Site protection instrument
- Financial assurances
- Performance standards
- Monitoring and reporting plan
- Credit release criteria
- Accounting procedures
- Maintenance plan
- Adaptive management plan
- Long-term management plan
- Default provisions
- Bank closure plan
- And more!

# Interagency Review Team



- Team that provides regulatory review, approval, and oversight bank
- Chaired by US Army Corps of Engineers
- Other members include US Environmental Protection Agency, Natural Resources Conservation Service, US Fish and Wildlife Service, and NYS Department of Environmental Conservation

# Service Area



- The geographic area in which permitted impacts can be compensated for at a given b (watershed approach)
- Proposed service area for CN is Oswego River/Finger Lakes Watershed
- Analysis of USACE-issued per in proposed service area 2010 2013 identified estimated need 5 acres/year of compensatory wetland mitigation



*How does wetland mitigation  
banking work?*

# Here's how it works

*Instead of multiple small mitigation projects ("permittee-responsible")...*

Applicant	Impacted Wetlands	Mitigation Required	Mitigation Plan
A	0.5 acres	1.5 acres	Onsite
B	0.6 acres	1.2 acres	Offsite
C	1.2 acres	2.8 acres	Onsite

*Mitigation banking creates few larger mitigation projects*

Applicant	Impacted Wetlands	Mitigation Required	Mitigation Plan
A	0.5 acres	1.5 acres	Conservation
B	0.6 acres	1.2 acres	Conservation
C	1.2 acres	2.8 acres	Conservation

# Process and timing for approval to develop a bank

*This proposal is currently in Phase I of the process required to receive approval to create a wetland mitigation bank. The bank instrument will identify the timeframe for establishing and operating the bank, if approved. A 10-year timeframe can be estimated to construct the bank, meet performance standards, and sell the credits. The site will then be managed in perpetuity to protect the resource.*

## Compensatory Mitigation Rule Timeline for Bank or ILF Instrument Approval\*

	Event	# of Days**	
Phase I	Optional Preliminary Review of Draft Prospectus	30	DE provides copies of draft prospectus to IRT and will provide comments back to the sponsor within 30 days.
	<b>Sponsor Prepares and Submits Prospectus</b> ~DE must notify sponsor of completeness w/in 30 days of submission~		
Day 1** Complete Prospectus Received by DE			
Phase II	Public notice must be provided within 30 days of receipt of a complete prospectus	30	<div style="border: 1px solid black; padding: 5px; width: fit-content;">                     DE distributes comments to IRT members and sponsor within 15 days of the close of the public comment period.                 </div>
	30-Day Public Comment Period	30	
	DE must provide the sponsor with an initial evaluation letter within 30 days of the end of the public comment period.	30	
Day 90			
<b>Sponsor Considers Comments, Prepares and Submits Draft Instrument</b> ~DE must notify sponsor of completeness w/in 30 days of submission~			
Day 1 Complete Draft Instrument Received by IRT Members			
Phase III	30-day IRT comment period begins 5 days after DE distributes draft instrument to IRT members	30	Within 90 days of the receipt of a complete draft instrument by IRT members, the DE must notify the sponsor of the status of the IRT review.
	DE discusses comments with IRT and seeks to resolve issues ~ # of days variable~	60	
Day 90			
<b>Sponsor Prepares Final Instrument</b> ~Sponsor provides copies to DE and all IRT members~			
Day 1 Final Instrument Received by DE & IRT			
Phase IV	DE must notify IRT members of intent to approve/not approve instrument within 30 days of receipt.	30	IRT members have 45 days from submission of final instrument to object to approval of the instrument and initiate the dispute resolution process.
	Remainder of time for initiation of dispute resolution process by IRT members	15	
Day 45			
<b>INSTRUMENT APPROVED/NOT APPROVED, or DISPUTE RESOLUTION PROCESS INITIATED</b>			

EPA/Corps draft 4/02/08

Total Required Federal Review (Phases II-IV): ≤225 Days

\*Timeline also applies to amendments

\*\*The timeline in this column uses the maximum number of days allowed for each phase.

# Examples of existing banks



# Advantages of mitigation banking

as compared to traditional permittee-responsible mitigation

- Greater certainty about outcomes
- Extensive financial, planning, and scientific resources
- Reduced permit processing times
- More cost-effective mitigation
- Efficient use of agency resources in review and compliance monitoring



## Disadvantages of mitigation banking



- Pay to Pollute?
- Social Justice?
- Bankers skip town?
- Loss of wetlands?
- Other concerns?

# Examples of on the ground results in New York

**2005**



**2009**



**2011**



# Ecological Restoration

## Before, During, After





After



*Why is a wetland bank being  
proposed for Central New York?*

## Good for the Environment - Biophysical

- “Functional lift”
- No (or less) temporal loss
- Activities may include:
  - Hydrology restoration – i.e. remove tiles, dams
  - Improve species composition – remove invasives, re-establish native species
  - Re-establish the appropriate wetland type – i.e. forested, emergent, scrub shrub, salt, etc.



# Examples of NY wetland degradation and restoration



# Examples of NY wetland degradation and restoration



# Examples of NY wetland degradation and restoration



# Good for the Economy – Economic Development

- Cost effective mechanism to offset unavoidable impacts



- Mitigation Banking economic advantages
  - Principal business is to provide functions and values (ecosystem market)
  - Banks are regulated - involve contractual obligations to agencies
  - Responsible for offsets in perpetuity – liability transfers from permittee



Good for Quality of Life

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*Comments, Questions,  
Discussion*

THANK YOU FOR PARTICIPATING!