

Appendix 18: Wetland Mitigation

Wetlands Mitigation Banking

Section 404 of the U.S. Clean Water Act permits compensation for unavoidable impacts to water resources resulting from a development project. The law allows a mitigation bank which is a wetland, stream or other aquatic resources to be restored, established, enhanced or preserved for the purposes of this compensation. The mitigation bank is an actual physical location (not on the original impacted site) that has been identified for this “third party” compensatory mitigation. The responsibility for the success of the mitigation including design, construction, monitoring, ecological success, and long-term protection of the site, is shifted from the permittee to the mitigation bank. The value of the mitigation bank is defined in terms of “compensatory mitigation credits” which can be established in a dollar amount. These can then be sold to development projects needing to compensate for their specific impacts.

<http://www.epa.gov/owow/wetlands/facts/fact16.html>

<http://www.epa.gov/owow/wetlands/pdf/MitigationRule.pdf>

In Lieu Compensation Program

In order to satisfy the Section 404 law, the In-Lieu Fee Compensation Program has recently been established in Maine through a partnership between The Nature Conservancy (TNC), The Maine Department of Environmental Protection, and the U.S. Army Corps of Engineers. When a development project is proposed that will impact aquatic resources, all efforts will be made to avoid or mitigate the impacts on site. When that is not deemed feasible, the developer will pay a fee, according to a predetermined fee structure, to Maine’s Natural Resource Mitigation Fund. TNC will use its expertise in conservation science to identify into which Maine wetlands the funds should be invested. TNC will then be responsible for the project execution and long term stewardship

http://www.maine.gov/dep/blwq/docstand/nrpa/in_lieu_program.htm

Summary for Harpswell

To apply wetlands mitigation banking to Harpswell, a suitable aquatic resource, such as a wetland or stream, would be identified in the town that was potentially threatened by the change in the use of the land as a result of a sale or that could benefit from restoration. When a developer in Maine needed a suitable wetlands mitigation bank, it could potentially pay fees towards the identified Harpswell aquatic resource. Contact TNC or Maine DEP for additional information.