12 Components of a Mitigation Plan

Wetlands and Permitting

OPD Conference 2014
12 Components of a Mitigation Plan

12 Components are necessary to provide documentation to the USACE for the proposed onsite mitigation:

• Created wetlands are constructed on upland (not already wetland)

• Will have the hydrology to function as a wetland after construction

• Will be dominated by hydrophytic vegetation

• Will be protected and remain wetland in perpetuity
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When?

• 2008 USACE published 33CFR Part 332 requiring 12 Component Mitigation Plan

Why?

• North Dakota USACE Regulatory office required NDDOT to begin using the 12 Components in 2012

How?

• NDDOT developed the current template and had it approved for use by USCE in 2012

Where?

• Appendix 9 and 10 of Design Manual – Chapter II – Section IV - Wetlands, Vegetation & Environmental Permitting
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- Plan developed for **On-site Mitigation** (within project area) – abbreviated version commensurate on the size of the action – Approved by the North Dakota Project Office

- **Mitigation Banks** – Approved by USACE North Dakota Project Office and Omaha District Office
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1. Objectives (unique to each site)

- The objectives should address what type of mitigation is being proposed, location and why the location was selected
- A description of the wetland type(s) and amount(s) that will be provided
- The method of compensation
  - i.e., restoration, creation, enhancement, or preservation
  - preservation can never stand alone
- The manner in which the resource functions of the compensatory mitigation project will address watershed needs
  - important for mitigation outside the regional service area
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2. Site selection (unique to each site)
   - A description of the factors considered during the site selection process.
     - Consider onsite alternatives
     - Consider the practicability of accomplishing ecologically self-sustaining aquatic resource restoration, creation, enhancement, and/or preservation at the site
     - Demonstrate the watershed is sufficient for compensatory mitigation purposes. (considered roadway runoff)
     - A justification is required if compensatory mitigation is proposed in a service area which differs from the project location. Service areas are identified in the North Dakota Mitigation Banking Guidance
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3. Site protection instrument (cookie cutter)
   - The legal arrangements and instrument, including site ownership, that will be used to ensure the long-term protection of the compensatory mitigation project site

   - Deed restrictions, conservation easements, purchase agreements, etc.
     - Deed restriction not required if within NDDOT ROW
     - Deed restriction required for NDDOT fee title banks
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4. **Baseline information** (unique to each site)
   - A description of the ecological characteristics of the proposed compensatory mitigation project site compared to the impact site
   - Describing historic and existing plant communities, hydrology, soil conditions
     - Soil conditions need to include on-site soil description documenting site is on non-hydric soil
   - Map showing the locations of the impact and mitigation site(s) or the geographic coordinates for those site(s), and other site characteristics appropriate to the type of wetland proposed as compensation
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5. Determination of credits (unique to each site)
   - Credits are determined using North Dakota Mitigation Banking Guidance document.
     - A description of the number of credits to be provided including a brief explanation of the rationale for this determination
   - Explanation of how the mitigation project will provide the required compensation for **unavoidable impacts** to aquatic resources
   - If NDDOT is buying Credits from an approved mitigation bank or in-lieu fee program, include the number and resource type of credits to be secured and how these were determined

North Dakota Mitigation Banking Guidance document:
Design Manual - Chapter II – Section IV: WETLANDS, VEGETATION & ENVIRONMENTAL PERMITTING - 3.3 USACE Wetland Mitigation Plan
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6. **Mitigation work plan** (unique to each site and cookie cutter)

- Detailed written specifications and work descriptions for the compensatory mitigation project
  - the geographic boundaries of the project
  - construction methods, timing, and sequence
  - source(s) of water
  - methods for establishing the desired plant community
  - plans to control invasive plant species
  - the proposed grading plan
  - soil management
  - erosion control measures
  - native vegetation will be used for planting
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7. Maintenance plan (cookie cutter)
   - A description and schedule of maintenance requirements to ensure the continued viability of the wetland once initial construction is completed. Proposed land use information, pesticide application, grazing or haying plan, etc.
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8. Performance standards (cookie cutter)

- Ecologically-based standards that will be used to determine whether the compensatory mitigation project is achieving its objectives. North Dakota regulatory Office will make final determination of appropriate performance standards
  - ✔ Hydrophytic plant standards
  - ✔ Hydrology standards
  - ✔ Hydric soil standards (assumed to be met when hydrophytic plant criteria is met)
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9. Monitoring requirements (cookie cutter)

- A description of parameters to be monitored
  - To determine whether the mitigation project is on track to meet performance standards
  - If adaptive management is needed
  - A schedule for monitoring and reporting monitoring results to USACE must be included
  - Established photographic points and direction
  - Once performance standards are met, monitoring will no longer be necessary for mitigation in ROW; every 5 years for mitigation banks
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10. **Long-term management plan (cookie cutter)**

- How the compensatory mitigation project will be managed after performance standards have been achieved
- Ensure the long-term sustainability of the wetland, including long-term financing mechanisms and the party responsible for long-term management
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11. Adaptive management plan (cookie cutter)

- A management strategy to address unforeseen changes in site conditions or other components of the compensatory mitigation project, including the party or parties responsible for implementing adaptive management measures.
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12. Financial assurances (cookie cutter)

- A description of provided financial assurances
- Financial assurances must be sufficient to ensure a high level of confidence that the compensatory mitigation project will be successfully completed, in accordance with its performance standards
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13. Other Information

- The district engineer may require additional information, as necessary, to determine the appropriateness, feasibility, and practicability of the compensatory mitigation project.
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• *Appendix 9 and 10* of Design Manual – Chapter II – Section IV - Wetlands, Vegetation & Environmental Permitting
Questions??

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