

**MEMORANDUM OF UNDERSTANDING  
BETWEEN  
THE U.S. ARMY CORPS OF ENGINEERS ST. PAUL DISTRICT  
AND  
THE MINNESOTA BOARD OF WATER AND SOIL RESOURCES  
REGARDING  
TECHNICAL REVIEW OF ENGINEERING COMPONENTS OF  
COMPENSATORY MITIGATION BANKS**

**WHEREAS**, the St Paul District, U.S. Army Corps of Engineers (Corps) is responsible for assessing the likelihood for ecological success and sustainability associated with compensatory mitigation sites under Section 404 of the Clean Water Act; and

**WHEREAS**, the Interagency Review Team (IRT) advises the Corps on the establishment and management of mitigation banks; and

**WHEREAS**, most mitigation banks in Minnesota are concurrently reviewed by the Minnesota Board of Water and Soil Resources (BWSR) for the Wetland Conservation Act (WCA) regulatory program; and

**WHEREAS**, most mitigation banks in Minnesota involve construction components requiring the review of plans prepared by licensed professional engineers; and

**WHEREAS**, BWSR is a member of the IRT and has licensed professional engineers on staff with expertise on wetland restoration; and

**WHEREAS**, BWSR engineers review all wetland bank plans with engineering components as part of the WCA review process; and

**WHEREAS**, coordinated review of mitigation banks provides for greater efficiency and predictability for bank plan applicants seeking State and Federal approval; and

**WHEREAS**, the Corps may enter into a memorandum of agreement with other agencies to perform some bank review functions;

**NOW, THEREFORE**, the Corps and BWSR agree that for greater efficiency and coordination in wetland bank plan reviews, BWSR will provide a qualified licensed professional engineer to review engineering components of wetland bank plans on behalf of the Corps.

**Scope and Nature of Review**

- A. The engineer will provide a technical review of engineering components of mitigation bank plans including, but not limited to, berms, tile breaks, scrapes, control structures, hydrologic/hydraulic analysis, construction methods, construction plans and specifications.
- B. The engineer will provide a general assessment of long-term hydrologic viability/sustainability of proposed mitigation banks.

- C. The engineer's review will be independent of BWSR's official representative on the IRT and engineering comments will be provided separately from BWSR IRT comments.
- D. The engineer will not be an official IRT member and will not have standing to either sign or initiate the dispute resolution process during the review of a final MBI.
- E. Comments on submittals (draft prospectus, prospectus, draft MBI) will be solicited from the identified BWSR engineer by the Corps project manager (PM) via the standard IRT distribution process.
- F. During the IRT review period(s) the engineer will provide comments to the Corps PM and all other IRT members on the distribution list via e-mail unless otherwise requested by the Corps PM or IRT members.
- G. The engineer may engage directly with the mitigation bank sponsor's engineer to discuss and clarify engineering issues associated with submitted plans.

## Miscellaneous

- I. Applicability**  
Nothing contained in this MOU creates any rights or obligations, substantive or procedural, enforceable by either party against the other, or by any third party against anyone.
- II. Dispute Resolution**  
In the event that a dispute regarding the MOU arises between the Corps and BWSR engineer, the parties will attempt to resolve the issue at the staff level. Matters unresolved at the staff level will be referred to the Points of Contact identified in this MOU.
- iii. Funding**  
This MOU is neither a fiscal nor funds obligation document. It does not obligate, commit or authorize the expenditure of funds. Each party to the MOU is responsible for funding its own actions; the undertaking of any activity described in this MOU is subject to the availability of sufficient, appropriate funding by the party proposing to undertake it.
- iv. Modification**  
The MOU may only be modified by the written agreement of both parties.
- v. Termination**  
This MOU will take effect on the date of the last signature below and will continue in effect until terminated by either party with a 90-day prior written notice to the other party.
- vi. Points of Contact**  
The signatories to this MOU will designate points of contact for the implementation of the MOU.

THIS MOU IS EFFECTIVE UPON THE DATE OF THE LAST SIGNATURE BELOW:

U.S. ARMY CORPS OF ENGINEERS, ST. PAUL DISTRICT



Ms. Tamara Cameron, Chief, Regulatory Branch

12/9/15

MINNESOTA BOARD OF WATER AND SOIL RESOURCES



Mr. John Jaschke, Executive Director

12/14/15

