

Compensatory Mitigation for Water Resources

Land and Water Resources Division (LWRD)



What is Compensatory Mitigation?

Compensatory Mitigation is taking action to restore, create, and/or enhance wetlands and other water resources – with a goal of gaining resource area and/or improving resource functions – to compensate for impacts.

- Compensation for impact is required by federal law under the Clean Water Act's [Compensatory Mitigation for Losses of Aquatic Resources](#) (33 CFR Part 332) and may be required by state or municipal authorities that authorize impacts.
- Mitigation may only occur after resource avoidance and minimization have been achieved to the greatest extent practicable.
- In some scenarios, alternative actions may be accepted as compensation.

Figure 1: Wetland Mitigation Site Before / After : Restoration of agricultural ditch to wetland



Types of Mitigation

Creation: Establishment of a new wetland or other water resource that did not previously exist by manipulating the physical, chemical, and/or biological characteristics of an area. Creation results in a gain of new water resource area and its associated functions/values.

Enhancement: Improvement of an existing water resource by adding or heightening its functions through manipulation of the physical, chemical, and/or biological characteristics of a resource. Enhancement does not result in a gain of water resource area however it may add to and/or improve existing resource functions/values.

Restoration: Re-establishment of a former water resource to natural/historic conditions by manipulating the physical, chemical and/or biological characteristics of an area. Restoration results in a gain of water resource area and its associated functions/values.

Figure 2: Tidal Marsh degraded by inundation, Bride's Brook Marsh, Rocky Neck State Park



Water Resources

LWRD's Mitigation program addresses compensation for impacts to water resources:

- **inland wetlands and watercourses**
 - tidal wetlands
 - coastal waters
- **navigable waters**
 - intertidal flats

Program Applicability

Tidal wetlands & other tidal/coastal/navigable water resources: DEEP has authority

Inland wetlands and waters:

- Municipalities have authority per Inland Wetlands and Watercourses Act
- DEEP has authority for State activities, activities on State lands, and in State 401 Water Quality Certifications for projects needing Federal 404 permits

This poster is for guidance purposes.
For mitigation program resources and information, refer to DEEP's Mitigation Website at <https://portal.ct.gov/deep/water/wetlands/water-resource-mitigation>
Contact Us at WaterResourceMitigation@ct.gov.

Mitigation Guidance – Coming Soon!

DEEP's LWRD Division is developing a comprehensive statewide mitigation program to address compensation for impacts to water resources. Program guidance materials are coming soon, to help stakeholders navigate the mitigation process.

Glossary of Mitigation Definitions **Mitigation Pre-Application Consultation Form**
Mitigation Monitoring Report Form **Mitigation Commencement/Completion Form**

Regulatory Mechanisms for Mitigation

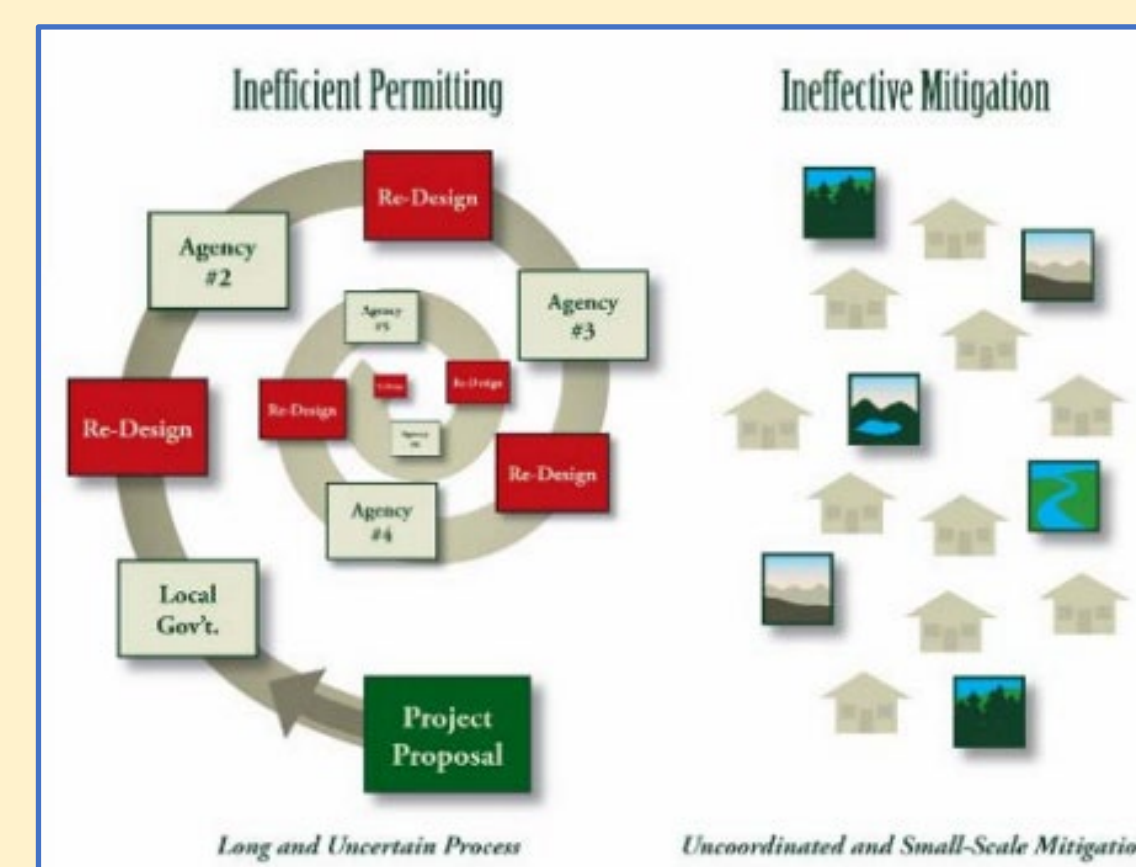
PERMITTEE RESPONSIBLE MITIGATION (PRM) = Water resource creation, restoration, or enhancement activities **provided by the permittee** to compensate for resource impacts. With PRM, project proponents submit a Mitigation Plan for approval with the permit application and the permittee is responsible for all aspects of mitigation until goals are met.

IN-LIEU FEE (ILF) = A program where **permittees purchase future mitigation credits** during the permit process, to compensate for impacts to water resources. ILF funds are deposited into a protected fund for watershed-level mitigation projects, and the ILF administrator is responsible for ensuring mitigation projects are performed. Mitigation occurs after impacts and funds are allocated, with temporal resource loss.

MITIGATION BANK = A **built mitigation site** where water resources are restored, created, and/or enhanced, then set aside **for future sale as mitigation credits** to offset impacts. The bank administrator (sponsor) performs mitigation to create the bank site, which gets approved for operation (credit sale) by federal and state agencies. Permittees then purchase 'resource credits' from the mitigation bank during the permit process, to offset impacts in advance of the impact, so there is no temporal resource loss.

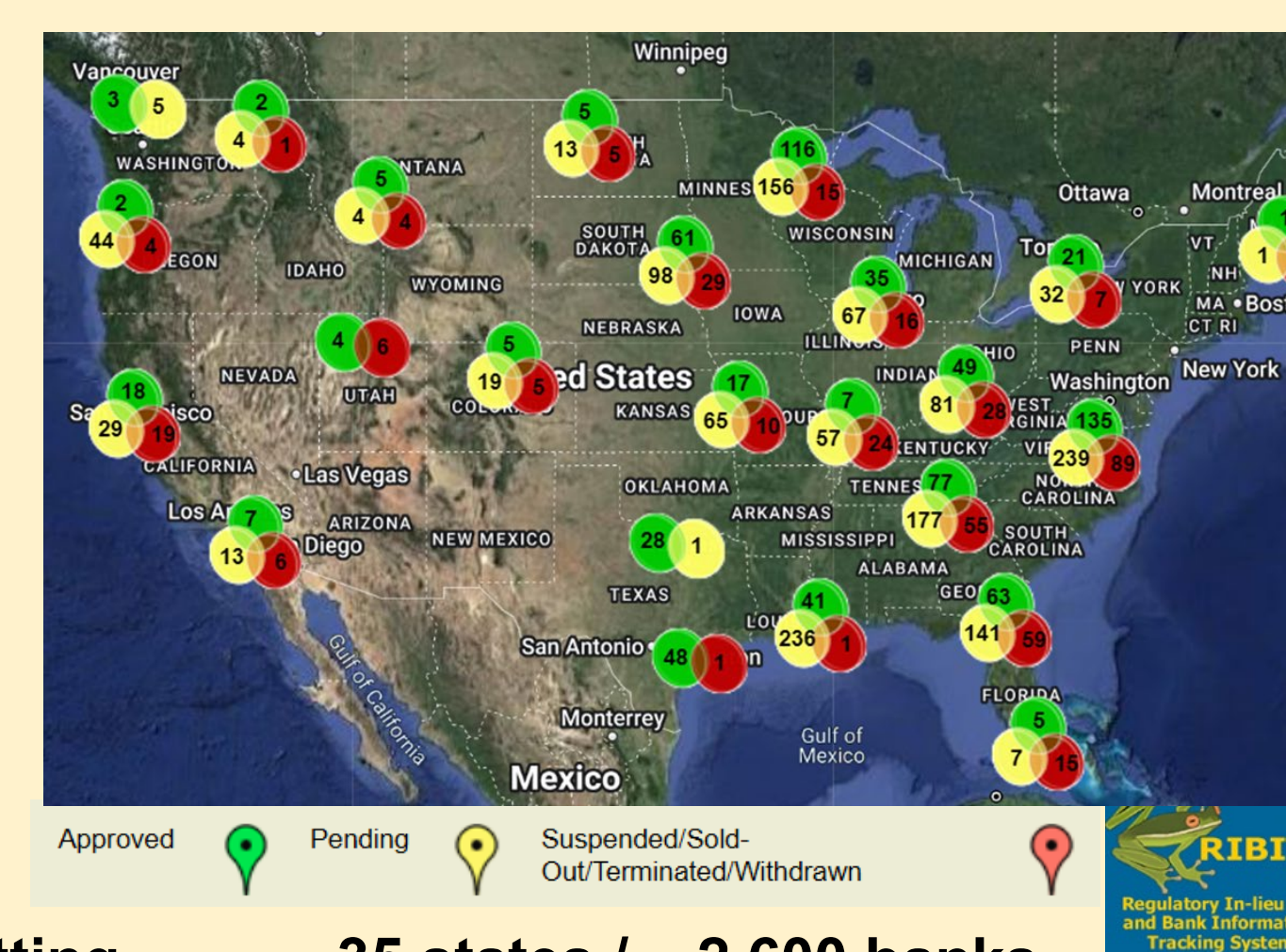
Watershed-Level Consolidated Mitigation : The Way of the Future

PRM/Onsite Mitigation Obstacles



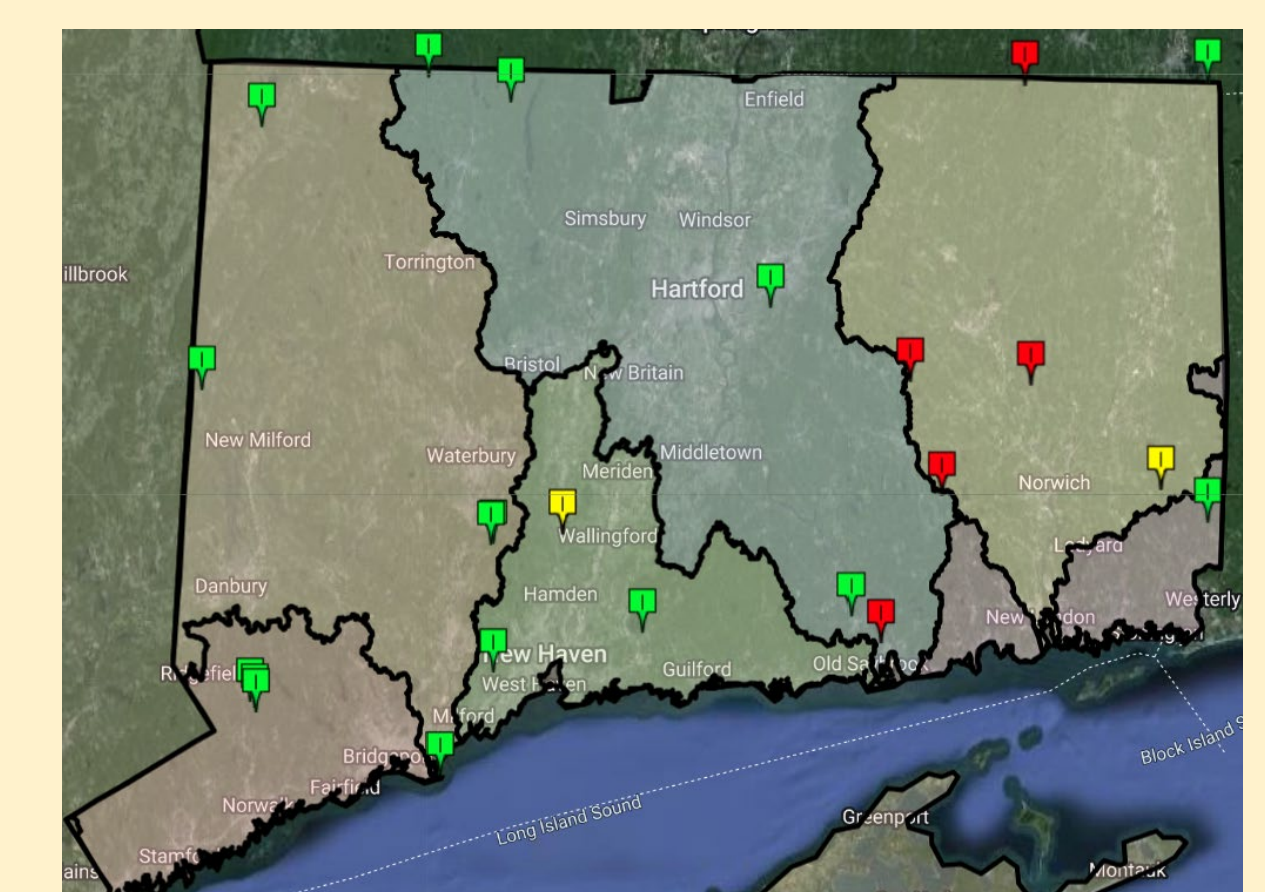
Sites often piecemeal and disturbed;
High cost; burdensome/inefficient permitting

Mitigation Banks in the USA



35 states / ~ 2,600 banks

CT In-Lieu Fee Program Sites & Service Areas



~20 projects since 2013
Federal Mitigation only, run by Audubon CT