



Defenders of Wildlife Statement of Mitigation Principles

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This document outlines the principles that Defenders of Wildlife will advocate for at the federal, state, and local level to mitigate impacts to species, priority habitats, and entire ecosystems. In much of our work, laws and policies set the standards for mitigation. This document is not intended to supersede those standards. Instead, it will guide the following aspects of our work: (1) interpreting mitigation standards that are ambiguous or imprecise; (2) recommending mitigation standards where none exist under applicable laws or policies; (3) improving existing mitigation regulations and standards; and (4) advocating for agencies or regulated entities to voluntarily adopt mitigation standards more robust than those required under applicable laws and policies.

Definition: In all cases in this document where only the word 'mitigation' is used it refers collectively to avoidance, minimization and compensatory mitigation.

Overall principles

1. All mitigation efforts must begin with a clear description of goals and objectives that describe the desired condition of affected wildlife and habitat after the mitigation efforts are completed. All mitigation plans must be articulated taking into account the broader conservation goals for the affected wildlife and habitat. This cannot be done without an understanding of the landscape-level ecological context described in any conservation plans for the area that explicitly addresses the functions and values of the affected species and habitat and provides goals and objectives for priority resources. This is the only basis to design effective avoidance, minimization and compensatory mitigation strategies.
 - a. Existing conservation plans and scientific assessments should help in the identification of any areas that are most suitable for development and priorities for conservation.
 - b. Mitigation requirements should be functions-based, quantifying the impacts and benefits that will occur.
2. We oppose actions leading to adverse impacts that undermine our conservation goals unless those impacts are can be successfully offset.

Avoidance and minimization principles

1. In general, impacts to wildlife should be avoided first and then minimized if avoidance is not possible.
 - a. Project proponents should not skip directly to compensatory mitigation without clearly demonstrating that it is not possible to avoid and minimize impacts.
 - b. In urban or highly disturbed environments with marginal habitat for affected wildlife, compensatory mitigation in other sites of high value may provide greater conservation benefits than some or all potential on-site avoidance and minimization actions. Available science on the species or habitat should be the basis for any decision to do so.
 - c. If management, protection and restoration in an extremely fragmented, isolated site would likely fail to provide a long-term benefit to the affected wildlife resource, then it should not be a preference.

Compensatory Mitigation principles

1. In circumstances where impacts associated with a project cannot be eliminated by avoiding a site or avoiding impacts to the resource within a site, we support compensatory mitigation investments that seek to leave affected resources better off than they were before the project – a ‘net benefit.’
2. A net benefit means that the long-term benefits to the impacted resource resulting from compensatory mitigation exceed the adverse impacts to that resource. As applied to wildlife, benefits may be measured in increased abundance, improved demographic factors (e.g., reproductive success, population growth), and/or threat reduction or elimination. As applied to a habitat type, benefits may be measured in the improved long-term function or resiliency of that habitat type.
 - a. Net benefit can be calculated at the project level, programmatic level or across a given landscape, and should address both the quantity and quality of impacted resources.
 - b. Any mitigation sites or actions should be designated with the objective of providing long-term ecological viability and resilience in the face of climate change.
3. Whether through banking, permittee-responsible or in lieu fee systems, all compensatory mitigation efforts require clear, measurable and enforceable performance standards; strong links between performance and allowance to use conservation actions to offset resource impacts; detailed monitoring and enforcement mechanisms; a long-term management plan ; and durable financial backing to cover long-term management costs.
4. For listed or candidate species, we only support like-for-like compensatory mitigation. This means that any compensatory mitigation system must have safeguards to ensure that harm to a listed or candidate species is only allowed to be offset by benefits provided to that same

species. We oppose any system that lacks such protections. We assume that a similar like-for-like approach will also be necessary to achieve a net benefit for other affected resources.

5. Compensatory mitigation should focus on actions that demonstrably improve habitat, improve species' populations or reduce threats.
6. Land acquisition or protection may be an important element of compensatory mitigation when change in land use is a threat.
 - a. Land protection credits should be quantified on the basis of the change in functional value (quality) and acres (quantity) associated with the change in threat achieved.
7. Additionality is important. Participants should not get credit for removal of a threat that didn't exist.
 - a. Credits should reflect consideration of the degree of uplift associated with restoration or enhancement actions and the probability of achieving those benefits.
 - b. The amount of credit given for land acquisition must be discounted based on the likelihood of future development of that land over time.
 - c. Habitat management actions can be credited for preventing deterioration in future condition that would occur but for the actions.
 - d. Particularly on public lands, mitigation creates additionality only for actions that are above what is actually expected of entities under existing laws and policies. If agencies are failing to meet their existing requirements, mitigation that meets existing requirements is not additional.
8. All mitigation to offset permanent impacts to a resource requires assurances that conservation benefits will be maintained permanently.

Banking

1. Banking (or credit-debit) systems should be designed to create incentives to invest early in conservation action that will result in the accumulation of credits and thus provide more certainty regarding the level of benefit the bank can provide to the resource.
2. We support the ESA conservation banking policy approach of only releasing credits as performance objectives reflecting the resource condition are met. Crediting for compensatory mitigation projects completed after development occurs, or that face a long delay in producing desired ecological functions, should be heavily discounted through higher mitigation ratios and insurance or bonding to reflect delayed conservation benefits or uncertain outcomes.
3. Private lands set aside through conservation banks or under HCPs require commitments of sufficient support to ensure land management continues to benefit affected resources for the duration of the impact, and to ensure necessary long-term monitoring and adaptive management. Mitigation occurring on public lands also requires such a long-term funding guarantee.

4. If service areas ¹are too small, banks may be less effective in benefiting affected wildlife and habitat.
 - a. For species at risk, service areas should be bounded by what defines a biologically-relevant unit of the affected species. Examples include biologically valid ESA recovery units, subspecies ranges, or watershed boundaries. Mitigation plans will likely have multiple biologically relevant scales and boundaries in order to effectively mitigate impacts and different resources.
 - b. When compensatory mitigation is required for groups of species (like migratory birds) or sensitive habitats (like wetlands, streams, etc) service area boundaries should be large enough to include the places where significant and lasting ecological benefits for those species and habitats are possible.

Monitoring Principles

1. Mitigation goals and how they are measured and monitored must inform the public about the status of the biological unit (e.g., species, habitat) at issue.
2. All mitigation plans should require at least annual reporting of conservation outcomes including a requirement that all data on mitigation activities be made public in a timely manner.
3. Monitoring should be tied to specific conservation goals based on defined management and ecological objectives as defined by an existing conservation plan and measured in relation to baseline conditions for the affected resource.
4. Monitoring plans should include triggers for adjustments in the management of the affected resource if identified conservation goals are not being met (adaptive management).
5. The success of mitigation including adaptive management depends upon having appropriate resources for the agency approving the plan to monitor and enforce its implementation. Endowments set up to cover costs of long-term management should also include costs of long-term monitoring and oversight by agencies.

¹ Service area is defined as the geographic area within which sites can be selected for compensatory activities in relation to the project site.