

# Wetland Mitigation Overview and Initiatives

Wetland Study Council- June 27, 2019  
Presented by Amanda Minks





# Scope of Wetland Council Related to Mitigation

<a href="#"><u>15.347(22)(b)1.</u></a>	The implementation and effectiveness of statewide wetland mitigation programs.
<a href="#"><u>15.347(22)(b)4.</u></a>	Storm water management ponds and their potential to serve a role in wetland mitigation.
<a href="#"><u>15.347(22)(b)8.</u></a>	Ways to improve the in lieu fee subprogram of the wetland mitigation program, under s. <a href="#"><u>281.36 (3r) (e)</u></a> , including subcontracting the management of a program to a nonprofit organization.
<a href="#"><u>15.347(22)(b)10.</u></a>	Methods of financing wetland mitigation requirements for local units of government.



# Overview of Mitigation Regulations

- Compensate for unavoidable impacts to wetlands by restoring, creating or enhancing wetlands
- Implemented in collaboration with USACOE and EPA to ensure state and federal mitigation requirements satisfied
- Regulated authority specified in Wis. Stat. § 281.36(3r)



# Ideal Mitigation Projects



- Provides watershed services
- Potential for high credit generation
  - Wetland re-establishment or wetland rehabilitation
  - Size of project
- Modest investment
  - Land acquisition
  - Passive hydrology restoration
  - Long-term maintenance costs
- Complimentary adjacent land use
  - Low risk of impacting neighboring properties
  - Healthy, vegetated buffer surrounding them
- Financial assurance

# Mitigation Instrument Approval

- Timeline and process specified in Federal Mitigation Rule (33 CFR 332.3)
- Process articulated in Mitigation Guidelines: <https://dnr.wi.gov/topic/Wetlands/documents/mitigation/WetlandCompensatoryMitigationGuidelines.pdf>

	Event	# of Days**	
Phase I	Optional Preliminary Review of Draft Prospectus	30	DE provides copies of draft prospectus to IRT and will provide comments back to the sponsor within 30 days.
	<b>Sponsor Prepares and Submits Prospectus</b> -DE must notify sponsor of completeness w/in 30 days of submission-		
Day 1** Complete Prospectus Received by DE			
Phase II	Public notice must be provided within 30 days of receipt of a complete prospectus	30	
	30-Day Public Comment Period	30	
	DE must provide the sponsor with an initial evaluation letter within 30 days of the end of the public comment period.	30	
Day 90 Sponsor Considers Comments, Prepares and Submits Draft Instrument -DE must notify sponsor of completeness w/in 30 days of submission-			
Day 1 Complete Draft Instrument Received by IRT Members			
Phase III	30-day IRT comment period begins 5 days after DE distributes draft instrument to IRT members	30	Within 90 days of the receipt of a complete draft instrument by IRT members, the DE must notify the sponsor of the status of the IRT review.
	DE discusses comments with IRT and seeks to resolve issues ~ # of days variable~	60	
Day 90 Sponsor Prepares Final Instrument -Sponsor provides copies to DE and all IRT members-			
Day 1 Final Instrument Received by DE & IRT			
Phase IV	DE must notify IRT members of intent to approve/not approve instrument within 30 days of receipt.	30	45 IRT members have 45 days from submission of final instrument to object to approval of the instrument and initiate the dispute resolution process.
	Remainder of time for initiation of dispute resolution process by IRT members	15	
Day 45 INSTRUMENT APPROVED/NOT APPROVED, or DISPUTE RESOLUTION PROCESS INITIATED			

EPA/Corps draft 4/02/08

Total Required Federal Review (Phases II-IV): 5225 Days

\*Timeline also applies to amendments

\*\*The timeline in this column uses the maximum number of days allowed for each phase.

## Interagency Review Team

USACOE  
(lead)

EPA

DNR

Others

- FWS
- NRCS
- Tribes

# Mitigation Decisions

When is it required?

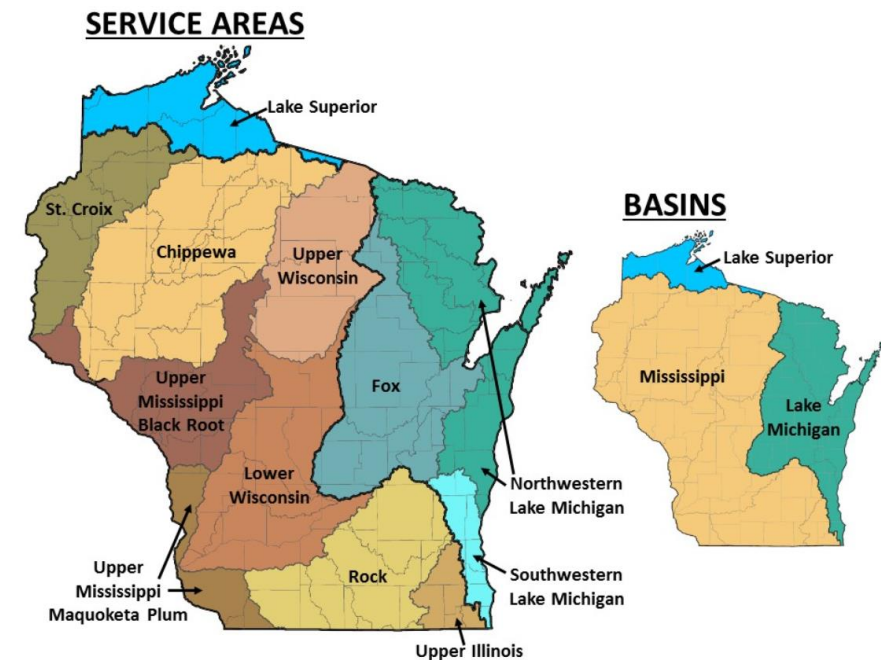
## *Project-specific requirements*

- Wetland individual permits
- nonfederal wetland exemptions that affect more than 1.5ac in rural areas or 10,000sq.ft. in urban areas
- Manufacturing projects in an electronics and information technology manufacturing zone

What's the best fit?

## *Factors to Making a Mitigation Decision*

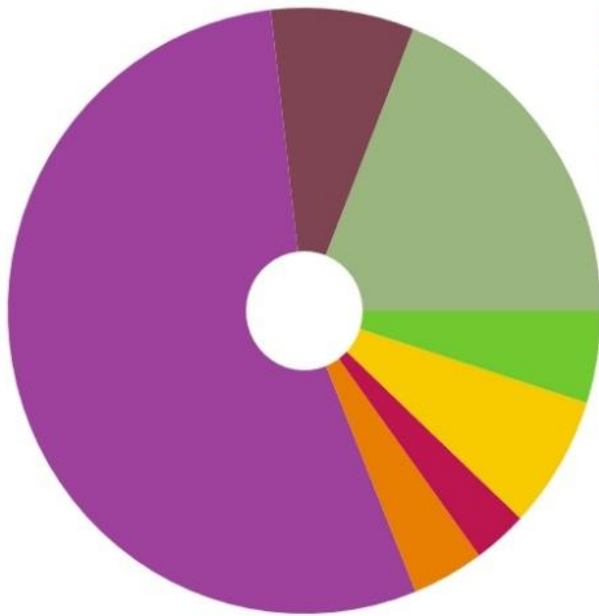
- Location of impact
- Availability and proximity of banking credits
- Type of community impacted
- Corp feedback (to ensure mitigation solution satisfies DNR and Corp requirements)
- Other site-specific factors



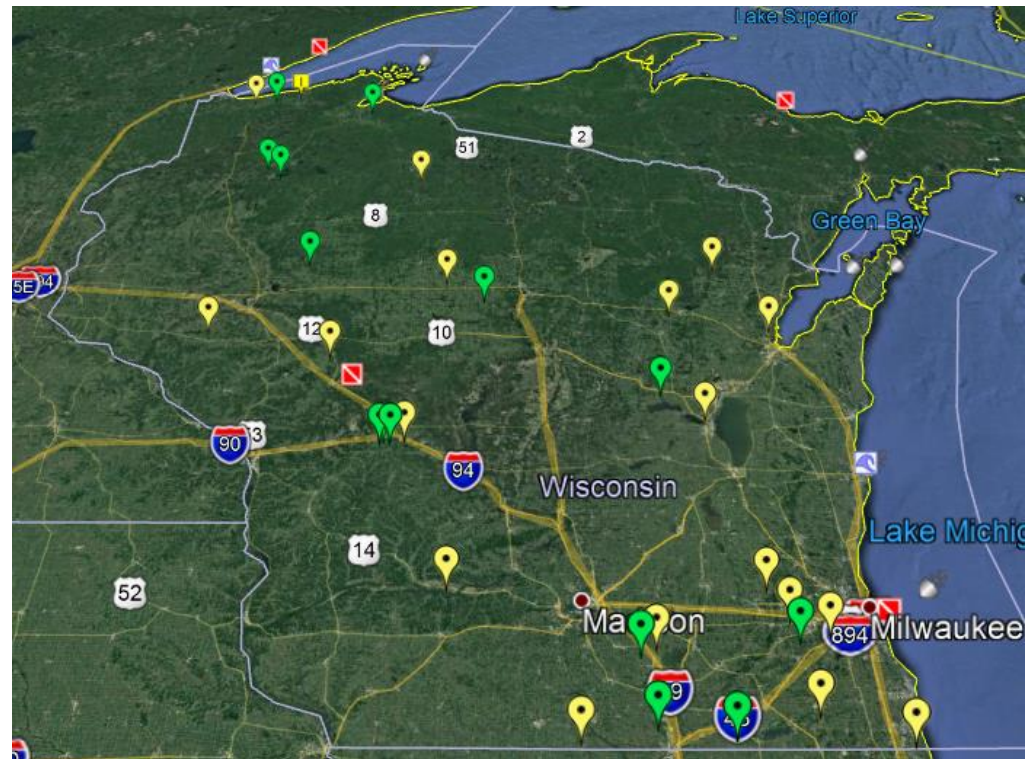
# General Mitigation Banking Trends

Wetland Mitigation Methods

Wisconsin  
Banks

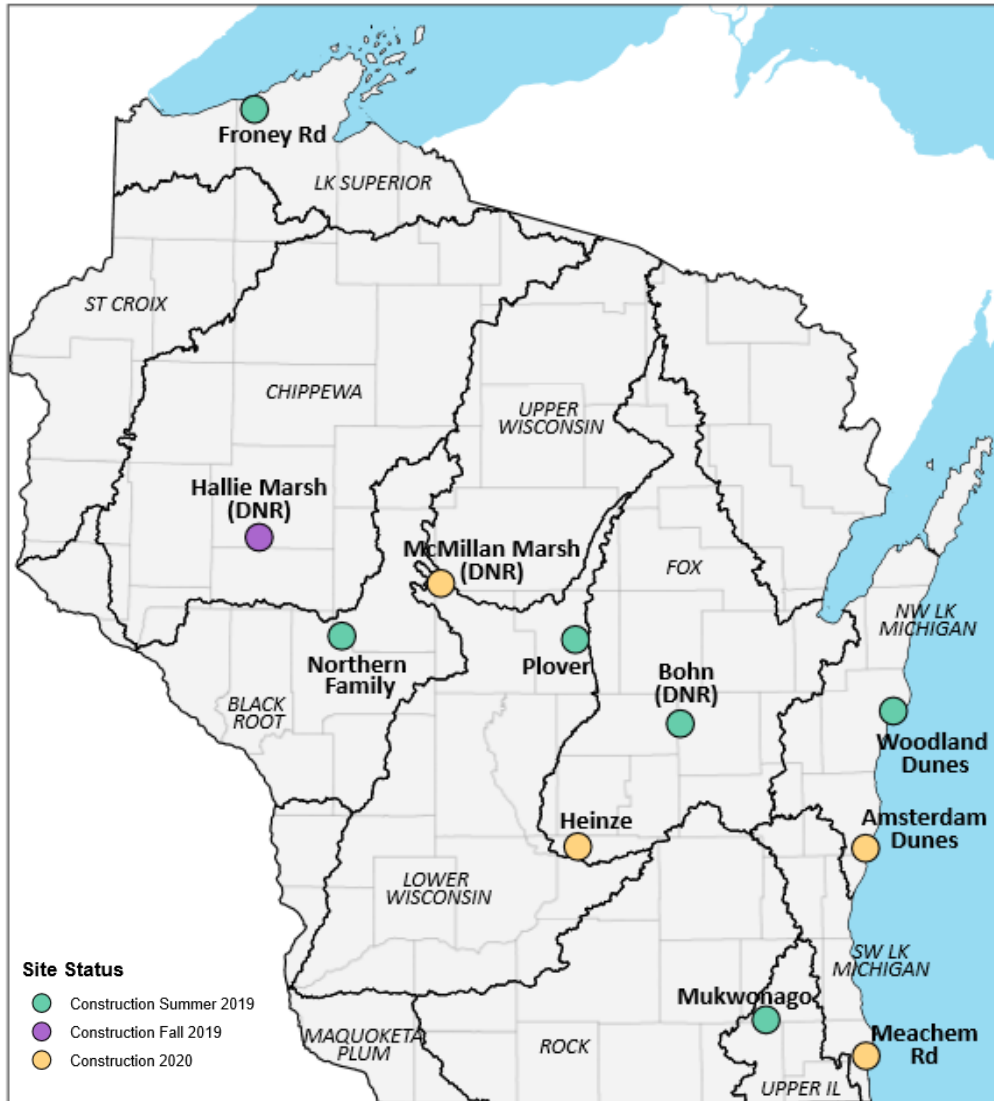


- Unspecified-
- Enhancement
- Establishment
- Preservation
- Re-establishment
- Rehabilitation
- Uplands (Buffer)

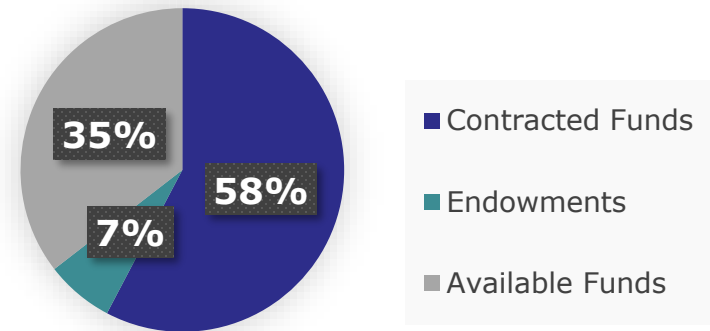


*Approved banks: 16*  
*Proposed banks: 18*

# General ILF Status and Trends



## Distribution of ILF Funds

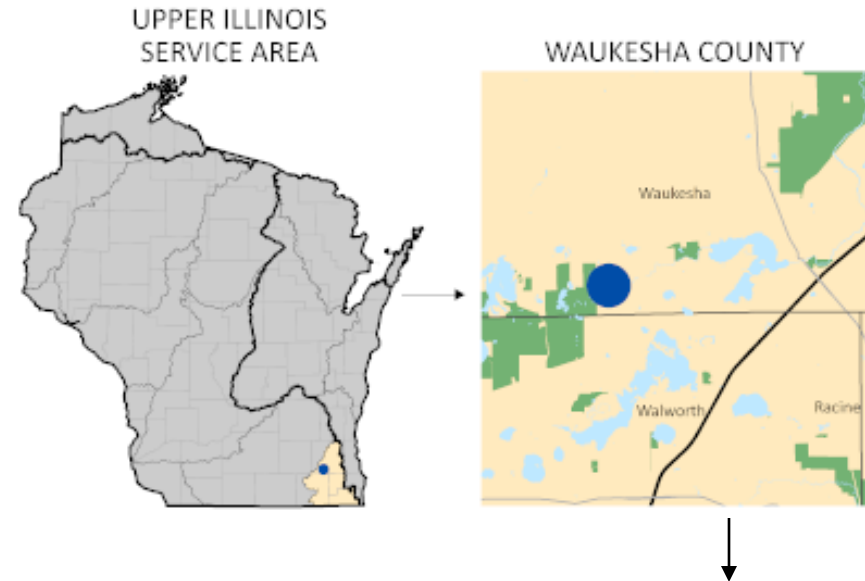


Project	Expected Approval Date
Northern Family	Approved
Mukwonago	Approved
Soik	July 2019
Woodland Dunes	July 2019
Bohn	August 2019
Froney Rd	August 2019
Hallie Marsh	August 2019
McMillan Marsh	Spring 2020
Meachem Rd	Spring 2020
Te Stroete	Spring 2020



# ILF Project Example

- 52 acre restoration project
- Adjacent to the Mukwonago River Unit of the Kettle Moraine State Forest
- Partnership with Waukesha County Land Conservancy to complete
- Planned to be restored to wet prairie and sedge meadow
- Construction underway



Interested in more ILF information or projects?

<https://dnr.wi.gov/topic/wetlands/wwct/>



# Looking forward

Updating  
NR 350

Reflect current procedures and decision making

Fix incorrect and outdated terminology

Specify banking and permittee-responsible processes and decisions

Create ILF subchapter and codify process to find and select appropriate ILF projects

Articulate preferred mitigation hierarchy for ILF and banking with built-in flexibilities

*Next steps: Scoping statement hearing to occur in July*



# Looking forward

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Possible  
regulatory  
changes

**SB 169  
related to  
wetland  
mitigation**

Geographic scope for  
banking sales and  
priorities

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Credit release  
schedule

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Possible  
federal  
mitigation  
rule updates

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# Looking forward

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## Engagement

October listening sessions for mitigation bankers hosted by Corp and DNR

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Reoccurring meetings to engage and seek feedback from individual bankers

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# *Questions for the Council*

What level of involvement would you be interested in?

Do you see value in a technical advisory group for NR 350?

Is there any additional information that we can provide at this time?