

FINAL DRAFT

Preferred Wetlands Mitigation Program Alternative City and Borough of Juneau

March 1, 2000

Prepared for:

City and Borough of Juneau
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INTRODUCTION

The Juneau Wetlands Management Plan, adopted by the City and Borough of Juneau, calls for the establishment of a wetland mitigation strategy. Impacts to wetlands in Juneau are occurring annually and will continue as prime upland areas are developed. The Wetlands Review Board, with input from stakeholders, has been developing a sound method to restore and preserve Juneau's wetland resources while ensuring economic growth and development. **A Preferred Wetlands Mitigation Program Alternative has been developed with a goal of being affordable, fair, and environmentally sound.**

This program would provide extensive benefits in three key areas:

- **Environmental Benefits:** preserve and restore important fisheries, wildlife and water quality values;
- **Community Benefits:** provide additional public access, open space, flood control and educational opportunities.
- **Economic Benefits:**
 - Provide certainty in permitting developments involving wetlands
 - Reduce the regulatory delays
 - Free up land for development
 - Maximize on-site development potential
 - Increase in land values as a result of added community benefits.

Features of the Preferred Wetlands Mitigation Program Alternative include:

- A programmatic approach featuring both restoration and preservation mitigation sites.
- CBJ acquisition of environmentally sensitive wetlands habitat as initial mitigation site.
- Formal agreement with the resource agencies to allow off-site development projects to satisfy mitigation requirements through purchase of credits.
- Revolving account established, allowing portion of monies gained through sale of credits to be used to develop subsequent wetlands projects.
- Wetlands projects protected in perpetuity.
- Increased certainty and reduced permitting time for development.

Ultimately, the program would result in a win-win situation where development is made easier and wetlands can be protected.

Background

The Juneau Wetlands Management Plan adopted by the City and Borough of Juneau (CBJ) in 1992 called for the establishment of a wetlands mitigation bank to offset future impacts to wetlands, along with wetland protection and management actions. The CBJ Community Development Department, funded through a grant from US Environmental Protection Agency, hired Wildlands, Inc. to assist in the development of a mitigation program for the Juneau area.

The traditional wetland mitigation bank is a site of restored or protected wetland habitat that is used to compensate for impacts to similar habitat from other locations. Projects that impact wetland habitats can purchase credits from the mitigation bank equivalent to the amount of area or habitat values that they have impacted. The use of mitigation banks is voluntary and project developers have the option of providing other means of mitigation.

The Community Development Department with the assistance of Wildlands convened a number of meetings with interested stakeholders and regulatory staff to review the current status of mitigation efforts and receive input on preferred methods to address wetland mitigation issues. After extensive meetings and input from these parties it was determined that the most efficient manner to address Juneau's mitigation needs was to develop a comprehensive mitigation program, rather than a single bank. The program would include both wetland preservation and restoration sites, along with the development of other tools to protect and restore wetlands while ensuring economic growth and development.

Need for Mitigation Program in Juneau

The Wetlands Review Board adopted the following set of findings regarding the need for mitigation (January 31, 2000):

- The Juneau Wetlands Management Plan provides for the establishment of a wetlands mitigation strategy. It states: "The Wetlands Review Board will develop and implement a long-term, comprehensive wetlands mitigation strategy for Juneau wetlands, in consultation with State and federal agencies. The goal of the strategy is to create the greatest environmental benefit for each expenditure for a mitigation project."
- Wetlands are being impacted and lost yearly Borough wide. Those areas, which have been particularly impacted, include the Mendenhall Valley, the Lemon Creek area and Douglas Island.
- Regulatory entities have demonstrated a fair amount of inconsistency in permitting development projects and requiring mitigation of impacts.

- The future market demand to develop wetlands will increase, as there is a reduction in developable uplands.
- While most development projects are approved, many of the projects experience delays in permitting and require on-site avoidance. This results in additional project costs and affects project values;
- There are a number of potential restoration and preservation locations in the Juneau area that possess different opportunities and constraints;
- The market and regulatory conditions in Juneau provide an opportunity to create a mitigation program that is not as restrictive as in the Lower 48.
- The CBJ, one of the major landowners in the Juneau area, has a policy of disposing of properties for economic development purposes and of retaining or acquiring lands for conservation purposes.

Wetlands provide important ecological and recreational benefits to the residents and visitors to the Juneau area. Ecological and recreational benefits from wetlands include fisheries, wildlife, water quality, flood control, groundwater recharge, open space, public access, and education, with additional benefits in terms of tourism and land values. For example, studies have shown that communities with a strong resource base have higher tourism and recreational revenues, along with higher real estate values relative to areas with less natural areas.

The CBJ recognized that, due to the relative abundance of wetlands in the Juneau area as compared to uplands, there would be increased pressure to develop wetlands once much of the upland areas had been developed. Given both the federal and state laws regulating wetlands, the increased pressure on wetland habitats would result in delays in permitting much needed economic development as well as losses to important wetland habitats.

It is widely recognized that the current regulatory environment surrounding the permitting and development of wetlands is often cumbersome and inefficient. The inefficiencies stem from the current situation where many project proponents are subjected to delays and uncertainties in obtaining permits, yet little comprehensive or effective mitigation is received in return. These delays in permitting result in a loss in time and money to project proponents without any real tangible protections of the wetland resources of Juneau. The current situation is a lose-lose situation in which both business and the environmental community needs are not addressed.

It was in this climate that the CBJ adopted the Juneau Wetlands Management Plan in 1992. The Juneau Wetlands Management Plan established the Wetlands Review Board to oversee lower value wetlands, classified as “C and D” wetlands and “some” other wetlands permitting in Juneau, and called for the establishment of a wetlands mitigation

bank. The mitigation bank would allow permit applicants to compensate for damage to wetlands that would result from their development.

Therefore, based on the findings of the Wetlands Review Board, along with the input of a group of interested stakeholders called the Wetlands Mitigation Program Task Force, a preferred mitigation program alternative was developed.

Benefits of a Mitigation Program

The primary benefits in establishing a mitigation program for the CBJ are in:

- 1) Environmental Benefits
- 2) Development and Economic Benefits
- 3) Community Benefits.

Environmental Benefits

Wetlands in the Juneau area consist of a number of important habitats such as tidal mudflats and marshes, seasonal wetlands and marshes, riparian zones, and river and stream channels. These wetland habitats provide important areas for both resident and migratory fisheries species such as salmon. The tidal mudflats and marshes and seasonal wetlands provide habitat for waterfowl and shorebirds. All of the wetland habitats play host to a variety of wetland plants from some scrubs and flowers to large riparian trees such as cottonwoods and willows -- much of this plant life is unique to local wetland conditions. In addition to fish, wildlife, and plants, wetlands help to maintain water quality by filtering and purifying nutrients in stormwater run-off. A mitigation program that would offset impacts to wetlands would help to preserve and protect these important ecological benefits.

Development and Economic Benefits

As more of the upland habitats in Juneau area are developed, the greater the pressure will be on developing wetland habitat. This could slow and deter future economic growth due to the regulatory restrictions and potential uncertainty of permit approvals for future development in wetlands. A mitigation program that incorporates upfront approvals of mitigation options by the myriad of regulatory agencies will help reduce the uncertainty surrounding development and reduce the delays in obtaining project approvals. In addition, the Preferred Wetlands Mitigation Program Alternative calls for the swapping of developable lands, currently held by the CBJ, for environmentally sensitive wetlands thus allowing development to occur. Finally, studies throughout the United States have shown that areas that protect their natural resources and recreational opportunities in balance with economic development maintain higher average real estate values than do areas with a predominance of either type of land use.

Community Benefits

The potential community benefits from a mitigation program in the Juneau area are many. First, large wetland preservation areas will provide open space that can also provide public access trails for walking, hiking, biking, duck hunting and fishing access. In addition, areas that are preserved as formal mitigation sites will include non-wasting or interest bearing management accounts that offset direct taxpayer dollars going to maintain these sites. Wetland preservation and restoration areas adjacent to waterbodies will also provide flood control and water detention areas, thus reducing the need for costly public infrastructure projects. In addition, these areas provide locations for educational and research opportunities for local school groups. Finally, well planned and implemented wetland projects will help to maintain Juneau's quality of life and well deserved reputation as a beautiful community and visitor destination with extensive recreational opportunities.

Development of the Preferred Wetlands Mitigation Program Alternative

Under the direction of the Juneau Wetlands Management Plan and with funding from US Environmental Protection Agency, the CBJ Community Development Department hired Wildlands, Inc. to assist in development of a mitigation banking strategy. The Community Development Department and Wildlands participated in two-and-a-half days of initial stakeholder meetings and site tours in October of 1999. The participants in the meetings included environmental and business stakeholders, governmental agencies, CBJ staff, and other interested members of the public.

Following extensive review of published reports concerning both wetlands resources and economic growth forecasts, Wildlands developed a Mitigation Options Paper (December, 1999). The Mitigation Options Paper (see appendix) provided a summary of the economic forecasts and growth trends for the Juneau area, a summary of the potential mitigation banking site opportunities, and four potential options for developing a mitigation program. Additionally, it identified some additional issues that required further direction before the selection of a preferred alternative. The Community Development Department, along with Wildlands, then participated in additional meetings with the Wetlands Review Board and a newly created stakeholder group, the Juneau Wetlands Mitigation Program Task Force, designed to assist in the development of a mitigation program.

The four mitigation options proposed in the Mitigation Options Paper ranged from what was originally called for in the Juneau Wetlands Management Plan, to some variations on a city operated mitigation bank or program, to the more traditional private mitigation bank. For each of the options their respective advantages and disadvantages were listed.

Based on the input from the various stakeholders and Wetlands Review Board some of the options were ruled out and one option (Option 2) was modified to create the preferred alternative:

Option 1: CBJ Wetlands Management Plan Proposal:

This option which would implement the original Juneau wetlands management plan as drafted was deemed to be too restrictive in terms of the types of wetlands it could provide mitigation for.

Option 2: CBJ Mitigation Preservation/Restoration Program:

This option provided a more programmatic and flexible approach to mitigation banking and was the basis for the preferred alternative, with minor modifications in terms of developing stakeholders processes to finalize future implementation features such as project selection and credit costing.

Option 3: Anchor Project Investment (Municipality/Highway/Private)

This option relied on a large project proponent who would fund one or more projects and would then provide additional mitigation for the community. However, only a few large projects were identified. Of the large projects currently under consideration concerns were expressed by the proponents regarding the timing of their projects and that of the mitigation bank, along with potentially additional regulatory requirements associated with the creation of a mitigation bank.

Option 4: Traditional Non-Governmental Mitigation Bank

Finally, this option which is typically used in other areas of the United States was not deemed as viable due to the uncertainty over market demand and regulatory requirements, along with the relatively high costs of land in the Juneau area.

Following review and comments on the various options, a questionnaire of key decision points was developed. Input was received from the Wetlands Review Board and Task Force on the various proposed options. Both verbal and written comments on those issues identified as requiring additional direction were solicited. Those written and verbal comments from the Wetlands Review Board and Task Force were then summarized and provided to Wildlands in order to develop a draft preferred mitigation program alternative. The draft alternative was then provided to the Community Development Department staff and Wetlands Review Board for final revisions and preparation for presentation to the Juneau Lands Committee and the Committee of the Whole.

Preferred Wetlands Mitigation Program Alternative

The Preferred Wetlands Mitigation Program Alternative combines a more comprehensive approach than originally called for in the Juneau Wetlands Management Plan. The general consensus of the various stakeholders was that any mitigation solution for the Juneau area needed to be fair, affordable, and environmentally sound. In addition, flexibility of the program to address a variety of situations was considered vital. Therefore a single purpose mitigation bank as typically seen in the other areas in the United States was not a good fit for the Juneau area due to concerns over flexibility and affordability. Instead the stakeholders wanted a program that provides both wetland preservation and restoration, streamlining of the regulatory process, and provides additional benefits such as recreation and open space, not just the protection of wetlands. In addition, they wanted a flexible method to offset wetland losses including payments into set aside accounts and use of conservation easements on priority habitats, not just a single mitigation bank. The use of mitigation banks is voluntary and project developers have the option of providing other means of mitigation.

Mitigation Program Opportunities, Features and Benefits

Opportunity

The Montana Creek Area currently owned by Juneau Youth Services (JYS), known as the “Montana Bill” property is being considered for a land swap by CBJ for other, more developable property. Much of this 150-acre site is a Category A, high value wetland and provides an opportunity to create a sufficient base by which credits could be sold and to jump-start the mitigation program. This property is comprised of important seasonal wetlands that have been noted for their high species richness. This area also provides an important floodwater retention area and nutrient exchange with Montana Creek.



Montana Creek is the largest tributary to the Mendenhall River. The Creek has runs of coho, pink, chum, sockeye salmon, as well as cutthroat, rainbow/steelhead, and Dolly Varden trout. Montana Creek habitat is still generally intact. This site once linked to the lower Montana Fen area is considered an important area for mammals. The Upper Montana Creek area also contributes to the regional diversity of breeding birds.

The advantages of preserving the Montana Creek property include:

- Preservation of important wildlife and fishery habitat values that are relatively intact.
- The potential synergistic benefit of preservation of the Creek in conjunction with the Lower Montana Fen, resulting in the protection of an ecological core area of the watershed.
- Protection of a watershed before extensive and costly restoration becomes necessary.

This area has few urban encroachments and is in good condition. The site would serve primarily as a preservation opportunity.

The current opportunity to acquire the JYS Montana Creek property, and the recognized community and environmental benefits of preserving it, make it well suited as an initial mitigation preservation bank site which would facilitate the preferred alternative. However, it should be recognized that other preservation alternatives may exist at this time or in the future.

Features

The Preferred Wetlands Mitigation Program Alternative is designed to include a programmatic approach with both preservation and restoration sites. The City and Borough will implement the mitigation program with the potential of future partners being included in the program. A land swap, such as Montana Creek, could be used to initiate the program, which would free up CBJ held land for development. This implements one of the policies of the CBJ. A revolving account could be created where monies received from the sale of mitigation credits could be deposited. A portion of the revenues could be used to cover initial project costs, a portion set aside for future management, and a final amount could be used to implement additional restoration projects. Ultimately, after the initial acquisition, it is intended that restoration become an important component of the wetlands mitigation program.

Prior to adoption of the mitigation program, this program will include the initiation of agency discussions on the creation of the legal instruments for the mitigation banks and stakeholder meetings to determine the most appropriate additional preservation and restoration sites. Concurrent with or following the agency banking agreements, the revolving fund account could also be used to hold payments in anticipation of the restoration project implementation.

Benefits

Economic, environmental and community benefits can be realized with the Preferred Wetlands Mitigation Program Alternative. Environmentally, this option preserves an important seasonal wetland along Montana Creek and completes a link along the entire watershed of Montana Creek. Economically, swapping this land for a parcel appropriate for residential development could enhance housing and development opportunities in Juneau. In addition, streamlining the regulatory process for developers is a priority for this program. Community benefits include increased public access and educational opportunities. Inclusion of a large piece of property such as Montana Creek could create a sufficient base by which credits could be sold. The revenues received for the sale of mitigation credits to CBJ will be used to offset the public costs of wetland preservation, restoration, and the long-term management of those sites.

The Juneau International Airport is a large project currently in need of wetlands mitigation opportunities. While the mitigation program outlined is not dependant on the participation of the airport, economic, environmental and community benefits could be realized thorough its participation. Environmentally, monies used to purchase credits from the program could be rolled over into the construction of restoration projects, more quickly than might otherwise occur. Economically, monies needed for management or development of additional mitigation projects would be provided. From a community perspective, the runway safety areas get constructed. The airport benefits in that it is allowed to proceed with its development plans.

How the Preferred Wetlands Mitigation Program Will Operate

The following lists a step-by-step sequence in which CBJ will establish and operate the Juneau Wetlands Mitigation Program. It should be noted that some issues will need to be determined, but the processes to address the remaining issues are outlined below:

- CBJ initiates the program by swapping developable land for environmentally sensitive wetlands habitat located on the upper stem of Montana Creek;
- CBJ will convene the relevant wetland regulatory agencies and create a formal agency approved wetlands preservation and restoration mitigation site . This would allow off-site developments requiring mitigation to satisfy their mitigation requirements by purchasing credits from the CBJ.
- CBJ will also develop a formal mechanism to either receive mitigation monies or direct monies to an appropriate third-party (e.g., non-profit organization, etc.) for a restoration project;
- Monies received by the CBJ for mitigation will then be deposited into a revolving fund account and could be used to offset the costs of land and future land management, with a portion of the revenues going to the creation of additional wetland projects;
- Future wetlands mitigation projects will be determined by criteria set by a committee of interested stakeholders and approved by the Wetlands Review Board;

- Federal and state regulatory agencies will formally approve the wetlands mitigation program, however an interim agreement to accept an in-lieu fee could be used to offset the cost of mitigation;
- CBJ will also formally request that federal and state wetland regulatory entities examine methods to reduce the permitting time and uncertainty surrounding permitting projects in association with a comprehensive mitigation program.

In summary, the mitigation program is designed to be self-financing, provide regulatory relief to the development community, and protect and restore important wetlands, which provide environmental and recreational opportunities to the citizens of Juneau. (Figure 1 shows a diagram depicting how the program will operate.)

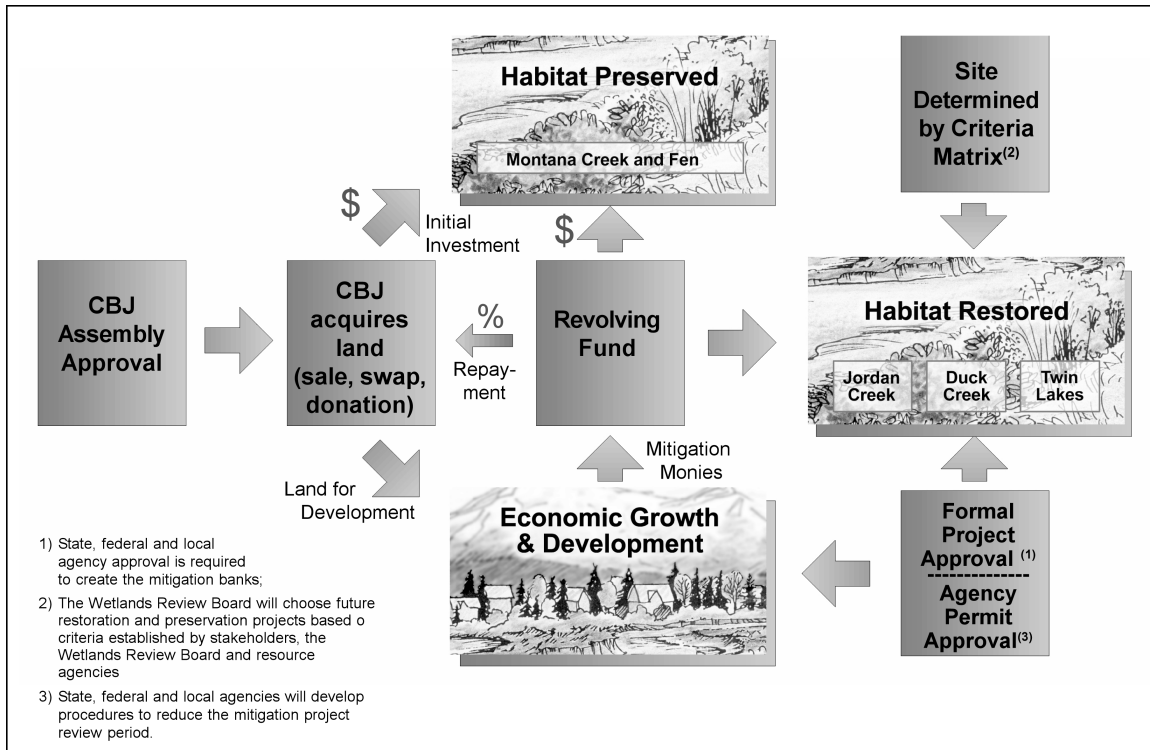


Figure 1

Next Steps

Following approval of the Preferred Wetlands Mitigation Program Alternative by the CBJ Assembly, the Community Development Department will need to implement and coordinate the following activities:

1. Complete the land acquisition;
2. Complete the legal agreements with the agencies establishing a mitigation bank and program;

3. The Wetlands Review Board, with input from the agencies and non-governmental organizations, will develop a matrix of criteria by which to choose and rank mitigation projects.
4. The Wetlands Review Board, with input from agencies and non-governmental organizations, needs to determine the price per credit to charge for the mitigation projects and what portion of the revenues from credits will go to pay off the initial land investment, management account, and future restoration project(s);
5. Wetlands Review Board will need to approve both the protocols and the specific projects;
6. Necessary changes to the JWMP and the JCMP will need to be submitted by CDD for approval by the Assembly.

Appendices

- A. Wetlands Review Board and Wetlands Mitigation Program Task Force input.
- B. Mitigation Options Paper: Revised (December 1999)
- C. Juneau Wetlands Management Plan
 - 1. Executive Summary
 - 2. Mitigation Banking Section
- D. Participants List