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## Support Green Industry

### Spend Federal Mitigation Money at Private Mitigation Banks

Federal Aid Highways Act (TEA-21, 1998), 29 U.S.C. § 133(b)(11):

WITH RESPECT TO PARTICIPATION IN A NATURAL HABITAT OR WETLAND MITIGATION EFFORT RELATED TO A PROJECT FUNDED UNDER THIS TITLE THAT HAS AN IMPACT THAT OCCURS WITHIN THE SERVICE AREA OF A MITIGATION BANK, PREFERENCE SHALL BE GIVEN, TO THE MAXIMUM EXTENT PRACTICABLE, TO THE USE OF THE MITIGATION BANK IF THE BANK CONTAINS SUFFICIENT AVAILABLE CREDITS TO OFFSET THE IMPACT AND THE BANK IS APPROVED IN ACCORDANCE WITH THE FEDERAL GUIDANCE FOR THE ESTABLISHMENT, USE AND OPERATION OF MITIGATION BANKS (60 FED. REG. 58605 (NOVEMBER 28, 1995)) OR OTHER APPLICABLE FEDERAL LAW (INCLUDING REGULATIONS).

HR 2864, Sec. 2010, Water Resources Development Act, passed in 2006:

IN CARRYING OUT A WATER RESOURCES PROJECT THAT INVOLVES WETLANDS MITIGATION AND THAT HAS IMPACTS THAT OCCUR WITHIN THE SERVICE AREA OF A MITIGATION BANK, THE SECRETARY, TO THE MAXIMUM EXTENT PRACTICABLE AND WHERE APPROPRIATE, SHALL GIVE PREFERENCE TO THE USE OF THE MITIGATION BANK IF THE BANK CONTAINS SUFFICIENT AVAILABLE CREDITS TO OFFSET THE IMPACT AND THE BANK IS APPROVED IN ACCORDANCE WITH THE FEDERAL GUIDANCE FOR THE ESTABLISHMENT, USE AND OPERATION OF MITIGATION BANKS (60 FED. REG. 58605) OR OTHER APPLICABLE FEDERAL LAW (INCLUDING REGULATIONS).

H.R. 1495, Sec. 2013, Water Resources Development Act, as passed by House Transportation and Infrastructure Committee, March 15, 2007:

IN CARRYING OUT A WATER RESOURCES PROJECT THAT INVOLVES WETLANDS MITIGATION AND THAT HAS IMPACTS THAT OCCUR WITHIN THE SAME WATERSHED OF A MITIGATION BANK, THE SECRETARY, TO THE MAXIMUM EXTENT PRACTICABLE AND WHERE APPROPRIATE, SHALL FIRST CONSIDER THE USE OF THE MITIGATION BANK IF THE BANK CONTAINS SUFFICIENT AVAILABLE CREDITS TO OFFSET THE IMPACT AND THE BANK IS APPROVED IN ACCORDANCE WITH THE FEDERAL GUIDANCE FOR THE ESTABLISHMENT, USE AND OPERATION OF MITIGATION BANKS (60 FED. REG. 58605) OR OTHER APPLICABLE FEDERAL LAW (INCLUDING REGULATIONS).

**NMBA Supports** a clear preference or first consideration of mitigation banks in all federal infrastructure authorizations.

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