Restoration Banking

Part II

Review of Last Year's Session

- Panel of experts discussed how banking and crediting can help meet program goals
  - Conservation Banking
  - Wetland mitigation banking
  - Credit trading in SOx, NOx, carbon
  - Water quality credit trading
- Panel considered some of the criteria thought necessary for a successful restoration banking program

Session Goals

- Facilitate conversation on whether:
  - Where/how restoration banking makes the most sense
  - Restoration banking can help expedite the NRDA process
  - Restoration credits can/should be transferable?
  - FWS/DOI needs to begin develop policy and guidance on the role of restoration banks in the NRDA process

Panel Members

- John Rapp (NOAA)
  - Will discuss NOAA's perspective, policy, and experience on restoration up-front of assessment and restoration credit trading
- Sherry Krest (FWS)
  - Will share her experience on Hay Road and the creation and use of excess credits
- Wayne White (Wildlands, Inc)
  - Will share his thoughts on how a third-party banker can benefit both Trustees and RPs in NRDA cases
- Suzanne Dudding (FWS)
  - Will talk about the need for an expedited NRDAR and whether, in her mind, restoration banking can be beneficially applied.

What is Restoration Banking?

- Restoration Banking is the term used to describe a process whereby an entity gets "credit" for a restoration project and is allowed to use the "credits" to offset liability for damages to similar types of service losses.

- Restoration up-front of assessment
  - Involves restoration of injured resources prior to a settlement.

- Restoration before injury
  - Involves restoration of injured resources that are not directly associated with an active case.
  - Credits may then be transferred to third parties to offset NRDA liabilities under approval by Trustees.

Potential Benefits of Banks

- Restoration of Trust resources can occur prior to settlement
- Restoration can occur prior to injury
- Large-scale cases could be pursued more cost-effectively
- Established 3rd party banks can minimize Trustee costs for long-term management and oversight

Restoration Credits Issues that first must be resolved

- How to determine credits/service flows
- How to assign/distribute credit
- When are credits assigned?
- How to deal with human use credits?
- How to scale a project?
- What level of assurances do trustees and PRPs need to proceed?
- What documentation is needed?

Answer Resources

- Existing NRDA practices
  - i.e., modified HEA/REAs
- FWS Guidance for the Establishment, Use, and Operation of Conservation Banks (2003).
- Habitat Credit Trading Partnership Agreement with the USDA NRCS and Association of Fish and Wildlife Agencies (2007).
- FWS Recovery Crediting Guidance (2008).

Conservation Banking Guidance (2003)

- Credits typically denominated in “acres”.
- Credit assignment/distribution part of Banking Agreement
- Credits typically assigned when habitat becomes (fully) functional.
- Non-wasting endowments or escrow accounts fund the long-term viability of banks to cover management, monitoring, and potential remedial actions.

Habitat Credit Trading Partnership Agreement

- Purpose is for collaboration and facilitation of the establishment of viable habitat credit trading markets that will result in net species conservation benefits for listed and other at-risk species.

FWS Recovery Crediting Guidance

- This guidance provides a crediting framework for Federal agencies in carrying out recovery measures for threatened and endangered species.
- Agencies must show how adverse effects of their activities are offset by beneficial effects of actions taken elsewhere.
- The combined effect must show a net benefit to the recovery of the species.

End of Presentation

Panel Question

- Can the creation and use of restoration banks serve to reduce risks (e.g., legal, ecological) to:
  - Trustees
  - RPs
- If so, is it reasonable to encourage third-party involvement and allow them to profit?

Panel Questions

- Conservation banking equivalates acres lost with acres compensated and does not currently attempt any weighing scheme for quality or ecosystem production. (instead just determines a credit trading ration (i.e., 2:1).
  - Would this work for conservation banking or should the system allow for variations in ecosystem services? (We currently factor such considerations into our scaling process but the system can be crude)

Panel Questions

- Trustees are encouraged to negotiate and settle cases using a services-to-services approach. How broadly can the services provided by restoration banks be defined (particulary for 3rd party entrepenurs) to allow them to provide "in-kind" compensation for resource injuries?
  - Haven't we stretched this definition in the past (ie. Using restoration money to purchase breeding bird habitat in Canada to compensate for an oil spill in a transient area).

Panel Question

- How to scale differences in timing when determining credit compensation? Is the discount rate adequate? Should it remain at 3 percent or more closely reflect financial and business preferences (i.e., profit model)

Panel Question

- Should the DOI NRDA programs begin to develop guidance and policies on restoration banking?
- If yes, should the NRDA program work with NOAA to develop jointly?

Panel Question

- Does more research need to be conducted concerning the efficacy of conservation banks?
  - What metrics currently exist to evaluate “success”?

Necessary Criteria to Establish a Successful Restoration Bank

- Must be linked to similar resources as those injured
- Credit creation could result from:
  - Conservation banks or projects developed by responsible party prior to final settlement.
  - Targeted restoration actions that provide a level of services exceeding the responsible party’s liability.
  - Existing conservation banks protecting similar types of injured resources