

**North Carolina's
Division of Mitigation
Services & Its Influence on
California Department of Fish
and Wildlife's Advance
Mitigation Pilots**

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Searching for a Crediting Mechanism & a Mitigation Development Process

- Washington Department of Transportation's Advance Mitigation Tool and Revolving Fund (now defunct)
- Florida Department of Transportation's In-Lieu Fee program
- Colorado I-70 Eco-logical study (Early Enhancement Opportunities Table)
- Desert Renewable Energy Conservation Plan (DRECP) & CDFW's Advance Mitigation Program (SB 34 Advance Mitigation Grant Program)
- North Carolina's Division of Mitigation Services (DMS)

What Could Work in California?

Why Focus on North Carolina?

- Recognized at state and federal level as an innovative approach
- Proven to be financially sustainable and efficiently implemented
- Mitigation implementation prior to fee collection (eliminated lag time)
- High-quality mitigation with compliance rate of 99% (up from 50% prior to 1996)
- Science-based mitigation development
- Modified three times since its inception (1996);
The Ecosystem Enhancement Program is now the
Department of Mitigation Services

Context: Critical Differences between North Carolina and California

- North Carolina is roughly 1/3 the size of California (53,819 mi² vs 163,696 mi²)
- Wetland, stream, riparian, and water quality mitigation (no species mitigation)
- NCDOT required to fulfill mitigation through the Department of Mitigation Services (DMS)
- NCDOT responsible for all roads in state (delegate to local partners, cities and counties)
- NCDOT receives 100% of FHWA funds

DMS - By the Numbers:

- **580+** projects statewide
- Over **30,000** acres of wetlands, **650** miles of streams, and **700** acres of riparian buffers conserved, restored, or enhanced
- **\$500** million in contract awards to private sector
- **Zero** NCDOT project delays for mitigation reasons since 2003

DMS Overview

- Division situated within Department of Environment Quality (NCDEQ)
- Originally the Wetlands Restoration Program legislated in 1996, implemented in 1997 with seed money from legislature (a few million dollars)
- Small program with administrative, planning scientific, & DoT coordinator positions (34 total)
- Includes **four** In-Lieu Fee Programs with projects approved by USACOE-led IRT (the crediting mechanism)

NCDOT-Dedicated In-Lieu Fee Program

- DMS assumes responsibility for NCDOT mitigation; supplies letter of responsibility to NCDOT (submitted with permit applications)
- DMS invoices NCDOT quarterly
- NCDOT required to supply a 7-year plan (updated annually) impact assessment and a mitigation needs estimate (overestimation)
- DMS continuously updates its planning and procurement (RFP) process to fulfill mitigation needs in advance of impacts

Mitigation Development

- All mitigation is situated offsite with flexibility to be placed outside of impacted watersheds and sited in River Basin priority areas
- Identification of impacts and mitigation sites prioritized by watershed & Ecoregions
- Mitigation fulfilled via a full-delivery process, encouraging partnerships with private sector
- Mitigation locations chosen for their potential to achieve the highest ecological lift by watershed

Impacts, Mitigation, & River Basin Priorities

- River Basin Priorities developed for the 17 river basins in North Carolina
- Mitigation needs organized by river basin (1,000-10,000 square miles) into HUC-8 catalog units (500-2000 square miles)
- Prioritize HUC-14 (20-100 square mile) watershed units for restoration and protection of wetlands, streams, and riparian buffers
- Targeted sub-watersheds receive priority for planning and restoration project funds.

Advice from Director Michael Ellison

- Start small, expand program over time
- Ensure seed money does not need to be paid back
- Prioritize mitigation projects by River Basin watersheds and Ecoregions. Keep it science-based
- Engage the private sector early in program development
- Utilize the full-delivery, competitive-bid process to reduce liability and streamline accounting processes
- Develop a rigorous tracking system (credits and financials)
- Do not underestimate the cost of developing mitigation if/when setting fees by type and location

RFP Process Comparison

CA DWR GGS Bulk Credit RFP	NC's Full-Delivery RFP Process
RFP - bulk credits to be developed within specified service area (San Joaquin valley)	RFP lists types of credits by River Basin and HUC sub units
Assigned total contract dollar amount and identified funding source (Prop 1E bond money, Delta Levees Program). Contract award: upfront lump sum	Does not assign cost for the credits only location and type; payment aligns with credit release schedule
Stipulates mitigation bankers to use CDFW's fee-based banking process, assume endowment/financial assurances and success criteria	Stipulates credits must be approved through IRT's bank enabling instrument
Contractual bill of sale for 155 GGS credits, establishes credit amount for service area	Contractual bill of sale, competitive bid process sets market value for credits, by type and location

Goals of CDFW Advance Mitigation Pilots

- Identify science-based mitigation opportunities that address CDFW's conservation needs and priorities on the landscape-level
- Incorporate aquatic and terrestrial connectivity into the process and determine where connectivity actions can serve as partial or full mitigation for species or habitat impacts
- Finalize an Advance Mitigation process that can be replicated statewide to respond to Caltrans' proposals



CDFW Advance Mitigation Pilots with Caltrans Districts

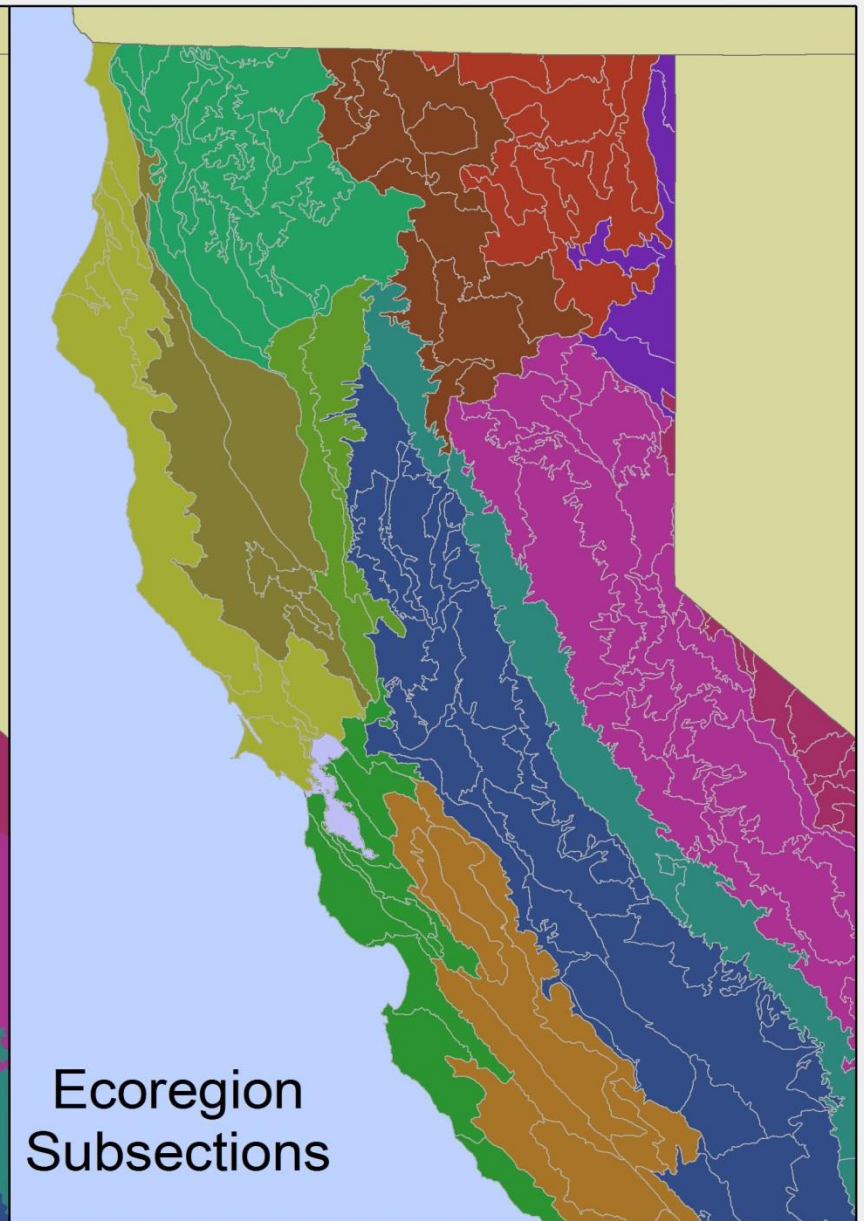
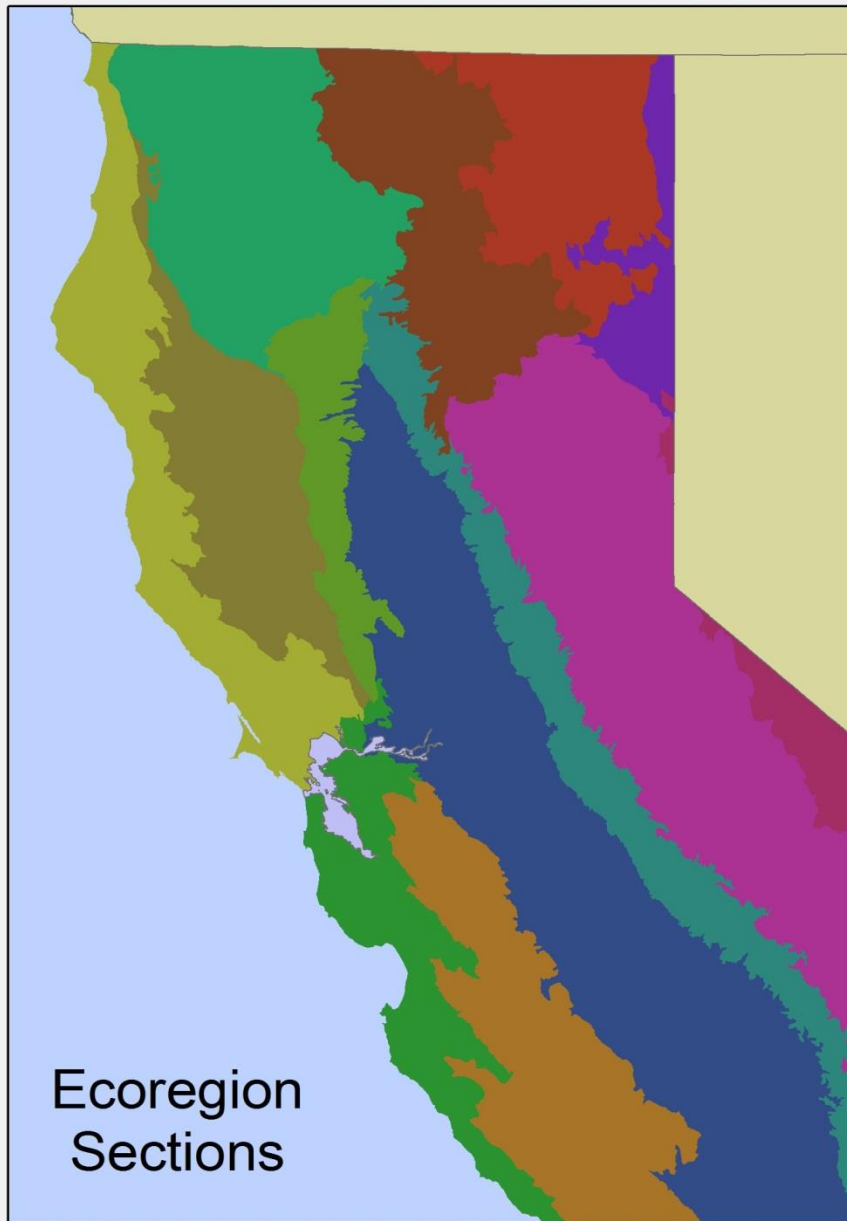
- Identify current mitigation fulfilled out-of-kind and understand near-future needs
- Engage Caltrans District staff to identify transportation projects in long-term planning documents
- Organize impacts by Ecoregion & HUC watershed units
- Use ecological boundaries to develop mitigation service areas

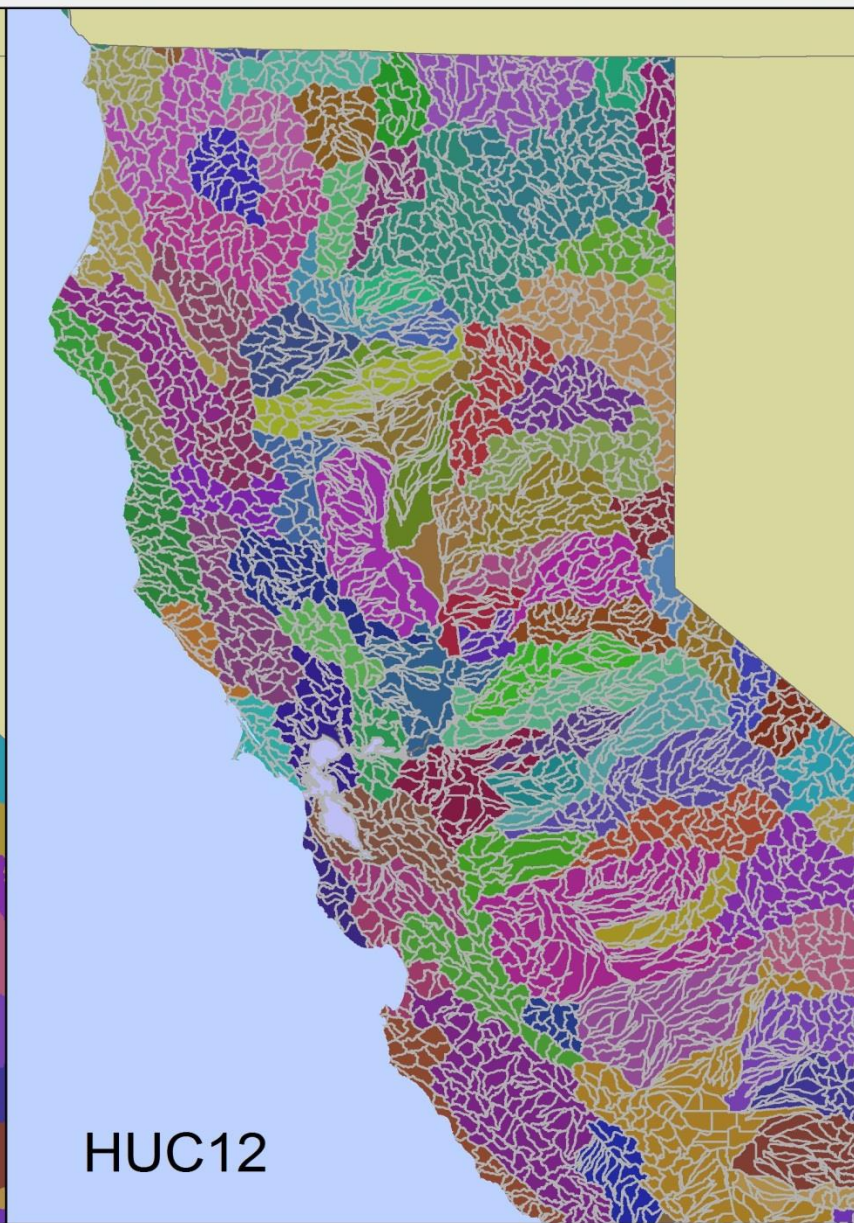
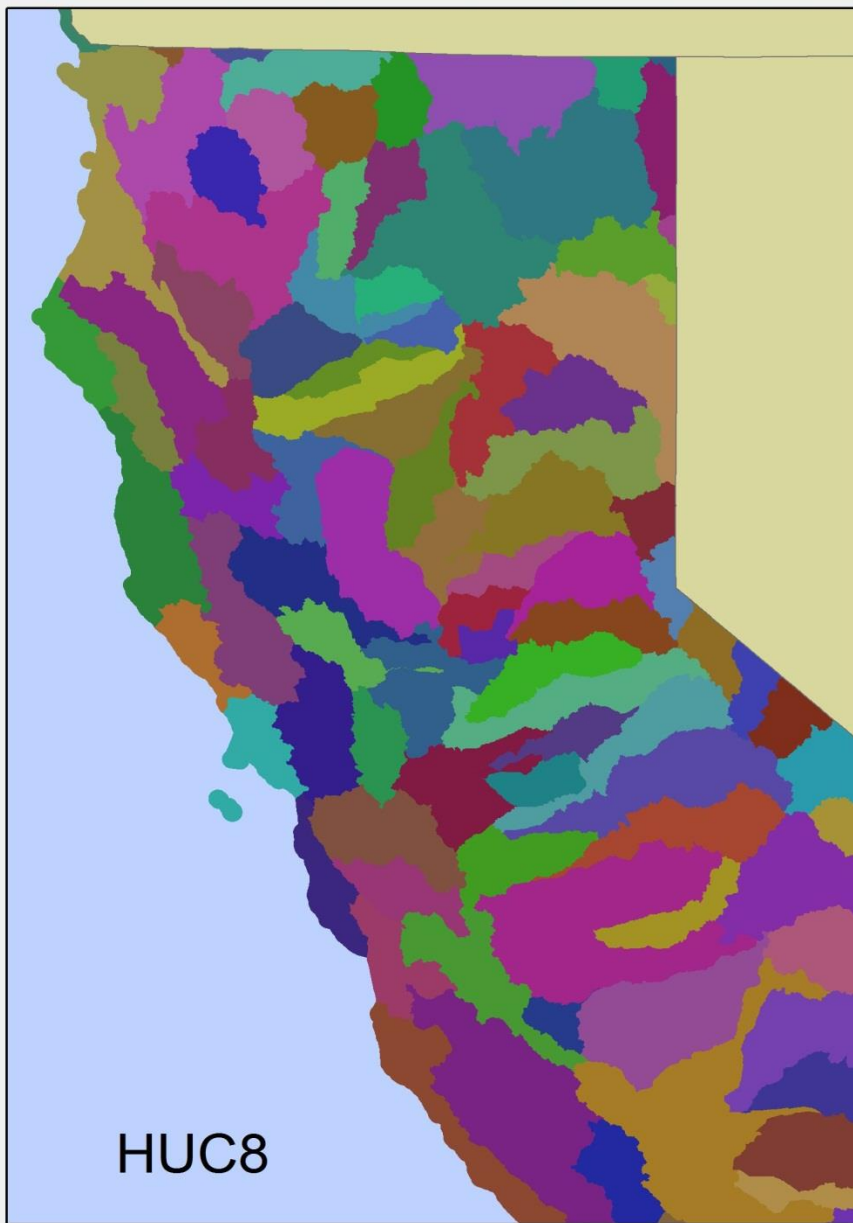


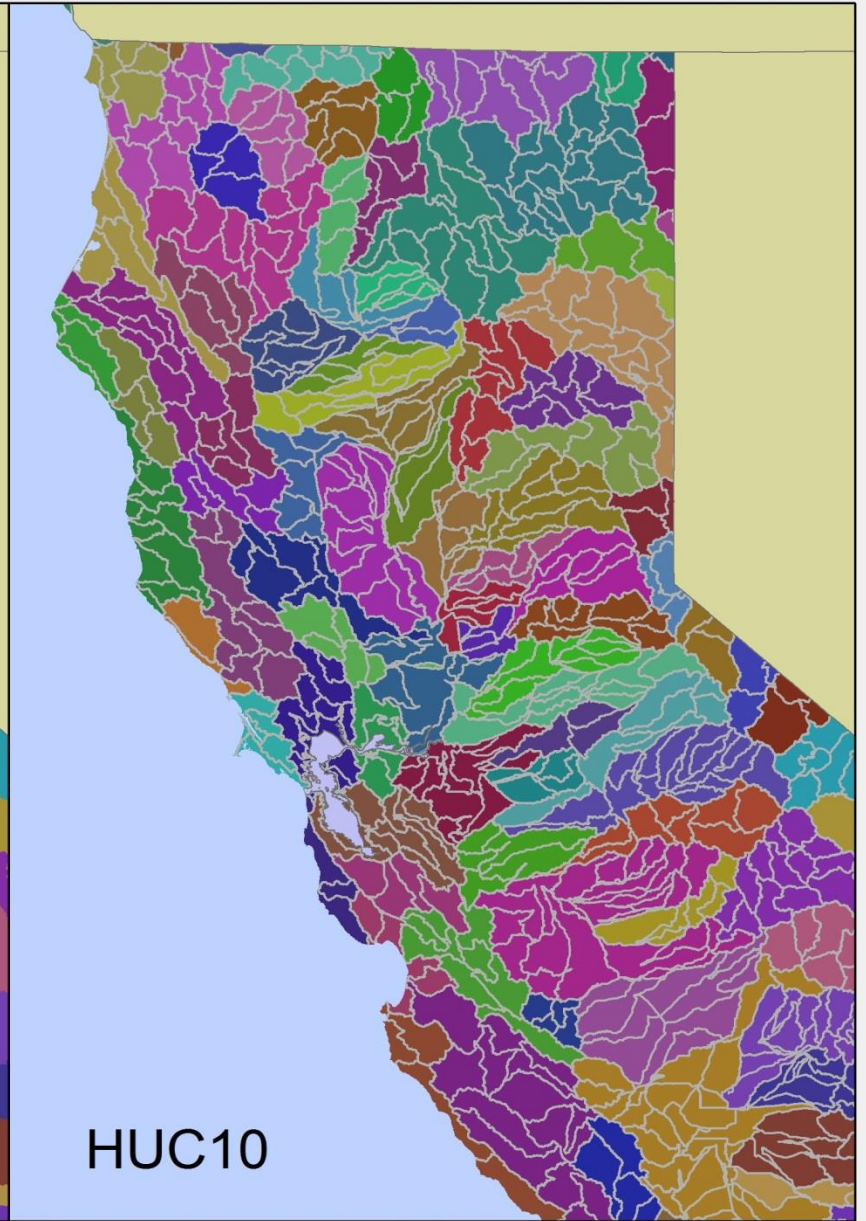
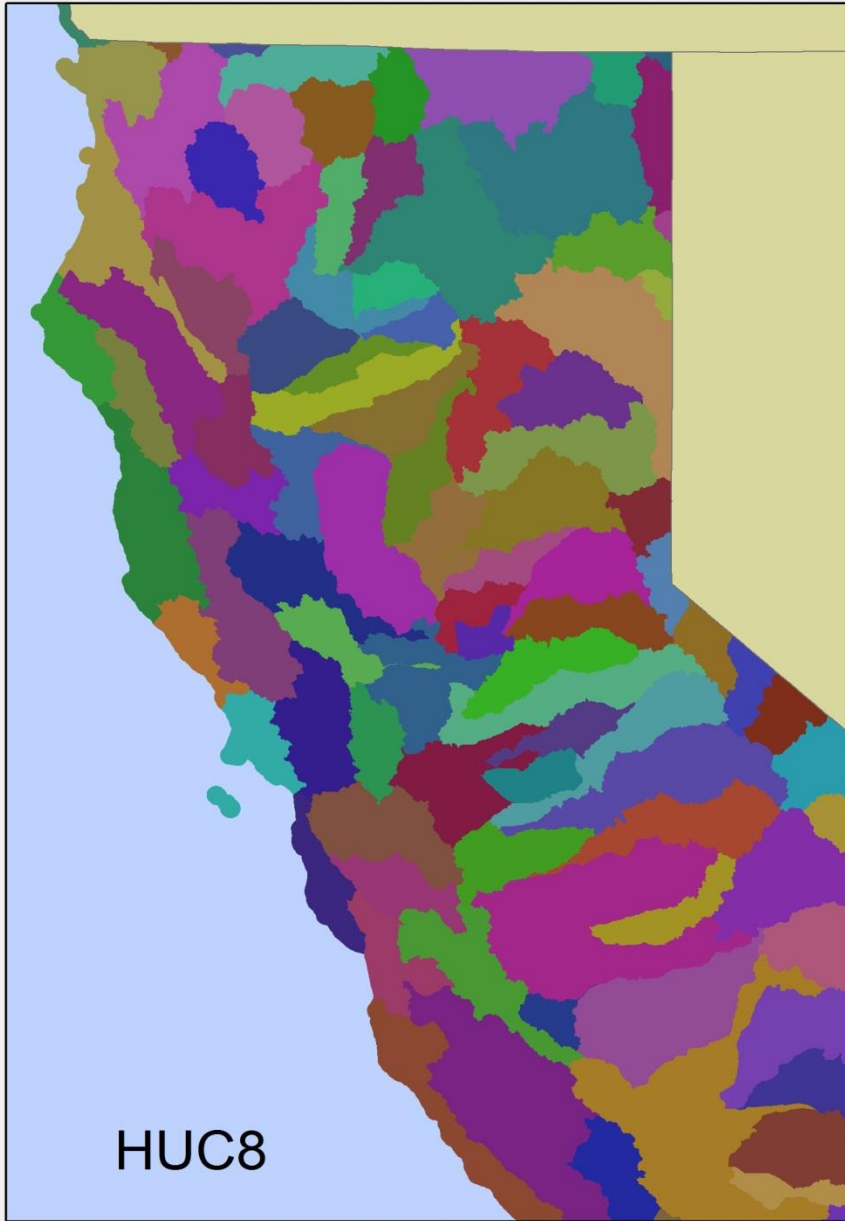
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- Use best available science to prioritize species and/or habitat needs & organize by Ecoregion Subsections & HUC-12 watershed units
- Guide mitigation to be offsite and/or out-of-kind to support conservation goals or priorities
- Expand mitigation actions beyond acquisition and protection by considering actions that contribute to the recovery of a species, reconnect habitat, and restore degraded habitat









Questions?



Web Resources:

- Environmental Law Institute's ILF training webinar series:
<http://www.eli.org/events/2013-in-lieu-fee-mitigation-training-webinar-series>
- The Nature Conservancy and Environmental Law Institute's **The Next Generation of Mitigation: Linking Current and Future Mitigation Programs with State Wildlife Action Plans and Other State and Regional Plans (Report)**:
<http://www.eli.org/research-report/next-generation-mitigation-linking-current-future-mitigation-programs-state-wildlife>
- North Carolina's Division of Mitigation Services website:
<http://deq.nc.gov/about/divisions/mitigation-services>
- Overview of the Division of Mitigation Services:
<http://deq.nc.gov/about/divisions/mitigation-services/about-dms/dms-programs>

Web Resources (continued):

- Division of Mitigation Services enabling legislation:
<http://deq.nc.gov/about/divisions/mitigation-services/about-dms/enabling-legislation>
- Division of Mitigation Services 2014-2015 report:
https://ncdenr.s3.amazonaws.com/s3fs-public/Mitigation%20Services/Document%20Management%20Library/Administration/Reports/Annual%20Reports/AR_2014_2015%20FINAL%20REPORT.pdf