



**REPORT TO THE LEGISLATURE**

**CALIFORNIA**

**CONSERVATION AND MITIGATION BANKING**

State of California  
Natural Resources Agency  
Department of Fish and Wildlife

2024 Report

## Executive Summary

This represents the 11th annual report based on the requirements of Fish and Game Code section 1799(d) (Appendix A). The report includes a description of the role of the California Department of Fish and Wildlife (CDFW) Conservation and Mitigation Banking Program (Banking Program) and bank applications and fees collected from November 1, 2022, through October 31, 2023 (referred to as 2023). The report is due to the Legislature on January 1, 2024.

Conservation and mitigation banks are permanently protected lands that provide mitigation for projects that may impact wetlands, threatened and endangered species, and other sensitive habitats. This mitigation tool supports the state's [30x30](#) and [Cutting the Green Tape](#) initiatives by providing a more strategic and streamlined approach for permittees needing to meet the mitigation requirements of a permit while providing permanent protection of critical habitat.

The Banking Program includes, but is not limited to, performing the following three primary functions:

1. Reviewing applications for new banks
2. Overseeing established banks in perpetuity
3. Developing and updating banking guidance and procedures

The process of creating a bank may take several years. The bank application includes up to four document types which require CDFW review:

1. Draft prospectus (optional)
2. Prospectus
3. Bank agreement package
4. Amendment(s) (if requested)

The effectiveness of this program greatly relies upon the ability of the Banking Program staff to fully perform the primary three functions of the program. Based on the strength of the banking fund, CDFW has continued to allocate the equivalent of 2.2 employees statewide to review proposed banks and oversee 93 established banks, covering approximately 72,508 acres. In fiscal year 2023, CDFW prioritized additional resources to review banks around the state and expanded the lands package review team in an effort to prioritize banking.

In 2023, CDFW received 30 bank documents for review and collected \$711,317 in fees, which is well over double from 2022. CDFW deemed three bank agreements and one amendment package acceptable and established three new banks. Forty-two percent of the documents were reviewed on time.

Since 1993, CDFW has reviewed, coordinated, and monitored banks to ensure the lands are properly protected in perpetuity. CDFW will continue to work with the banking community to assess ways to support and encourage conservation and mitigation banking. Legislative reports are located on the [CDFW Conservation and Mitigation Banking web page](#).

## Background

Under existing state and federal statutes (e.g., California Environmental Quality Act, California Endangered Species Act, and Clean Water Act), any individual, firm, or public agency that undertakes activities that destroy, degrade, or adversely alter the environment may be required to compensate the public for impacts to natural resources. This compensatory mitigation typically involves permanently protecting sufficient habitat to offset lost habitat resulting from project activities.

Compensatory mitigation for CDFW permits may be achieved in different ways, including Permittee-Responsible Mitigation (PRM) or buying advance mitigation credits at conservation or mitigation banks (banks) or at Mitigation Credit Agreement (MCAs) sites. The permittee (those needing to fulfill compensatory mitigation obligations required by permits) is responsible for the implementation and success of the mitigation in a permittee-responsible mitigation site. PRMs may lead to small and fragmented habitat reserves. Alternatively, banks are generally large, connected, ecologically functional areas of preserved, restored, enhanced, or constructed habitat that are conserved to provide mitigation for projects before impacts occur. In addition to the ecological benefits, banks benefit permittees by reducing costs, decreasing permit wait times, and providing a simple compensatory mitigation solution for permit compliance. MCAs also meet these needs, but as a new program, no MCAs have been established at this time.

Since 1993, CDFW has supported banking as an effective and meaningful approach to mitigation. In 2013, CDFW established a permanent Conservation and Mitigation Banking Program and associated fee structure (Fish and Game Code [Section 1797-1799.1](#)). In 2014, CDFW finalized [Guidelines for the Conservation and Mitigation Banking Program](#). In the Banking Program, an established bank is authorized to sell credits that represent habitat values that already exist or habitat that will be enhanced, restored, or created at the bank. Credits are sold to project proponents who need compensation for unavoidable loss of habitat due to land development projects or other impacts, where avoidance or on-site mitigation is unfeasible or undesirable. CDFW staff provide guidance to bank sponsors creating new banks, review application documents, oversee the performance of established banks in perpetuity, and develop policy in collaboration with the banking community.

CDFW has a signed memorandum of understanding to collaborate with other

federal and state agencies to create banking related policies to ensure that processes and practices are aligned<sup>1</sup>. Multi-agency working groups successfully integrated banking approaches and created joint procedures and templates to guide prospective bank sponsors. In addition to CDFW approved banks, other banks are dispersed throughout the state, such as banks for wetlands and federally listed species to which CDFW is not a signatory. Collaboration with partners, including bank sponsors, landowners, permittees, federal, state, and local agencies, are critical components of the Banking Program.

## Benefits of Banking

CDFW's Banking Program serves to streamline the regulatory process by providing pre-established (i.e., in advance) mitigation sites for those parties needing mitigation. In approving banks, the regulating state and federal agencies have already confirmed that approved banks can provide adequate and appropriate mitigation for impacts to certain habitats or species (as specified in a bank agreement). By mitigating at a bank, permittees can avoid time and cost that would otherwise be expended on searching for suitable mitigation sites and the burden of protecting these sites in perpetuity.

Banking is one of the many ways CDFW is working to proactively restore and protect areas of high habitat quality and connectivity value. Together with other CDFW conservation programs such as the Natural Community Conservation Planning (NCCP) program, Regional Conservation Investment Strategies (RCIS) program, and MCAs, the Banking Program allows for the necessities of development while protecting our state's species and habitats.

## Bank Applications Received

Bank applications consist of four categories, or document types. Bank sponsors interested in creating a bank must submit an application that contains several document types:

1. Draft prospectus (optional)
2. Prospectus
3. Bank agreement package
4. Amendment (if requested, after bank approval)

More than one type of application is submitted throughout the bank review process. These documents follow a specific order. A prospective bank sponsor may begin the process by submitting an optional draft prospectus, followed by a prospectus and a bank agreement package, which are required submittals. In

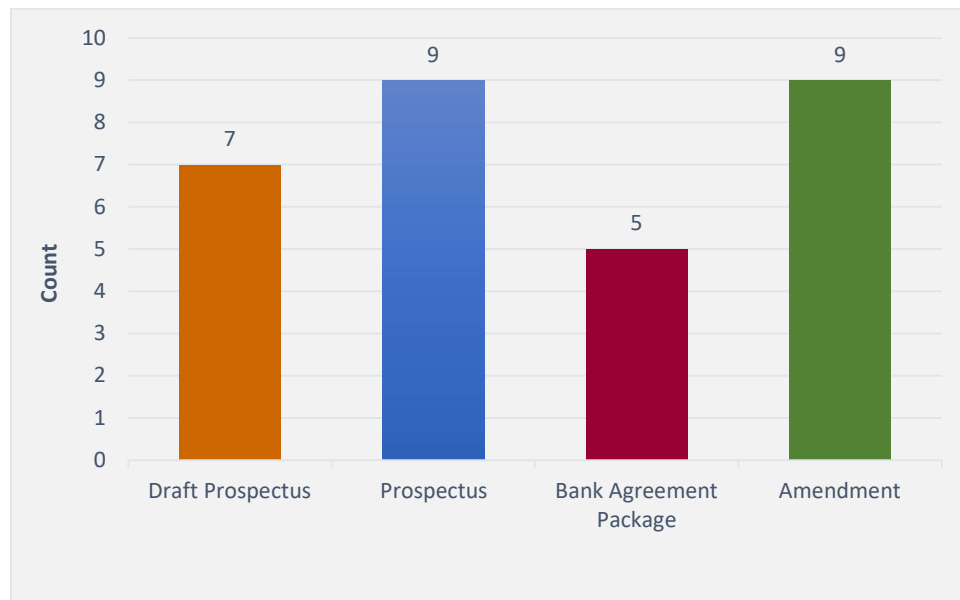
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<sup>1</sup> Collaborating agencies include U.S. Army Corps of Engineers (USACE), U.S. Environmental Protection Agency (USEPA), Natural Resources Conservation Service (NRCS), U.S. Fish and Wildlife Service (USFWS), and the National Oceanic and Atmospheric Administration National Marine Fisheries Service (NOAA NMFS).

addition, if a bank sponsor requests modifications at an approved bank, they may submit one or more amendments.

In 2023, CDFW received 30 bank application documents with associated fees (Chart 1); up 30% from last year. CDFW received mostly prospectuses and amendments.

**Chart 1. Application documents received by CDFW in 2023.<sup>2</sup>**



### Bank Application Review

Once an application document is received, it is reviewed by CDFW staff. CDFW evaluates draft prospectuses and provides feedback to the bank sponsor. In 2023, CDFW reviewed seven draft prospectuses. Prospectuses, bank agreement packages, and amendment documents each involve a two-part review process, with the first being for completeness and the second being for acceptability. Documents may be deemed incomplete or complete. If a document is deemed incomplete, CDFW will notify the bank sponsor to submit more information before deeming the application complete. In 2023, CDFW deemed 15 documents complete and 10 acceptable (Table 1). Four bank applications were withdrawn (three at the draft prospectus stage and one at the prospectus stage).

<sup>2</sup> Because the time for one bank to complete the entire bank application process may take many years, the total number of applications received each year is generally different than reviewed due to documents carrying over to the next reporting period.

**Table 1. Determination counts by application document type**

Determination	Prospectus	Bank Agreement Package	Amendment
<b>Complete<sup>1</sup></b>	5	4	6
<b>Not Complete</b>	8	3	5
<b>Acceptable</b>	6	3	1
<b>Unacceptable</b>	0	0	0

<sup>1</sup> Includes some documents that were first deemed "not complete."

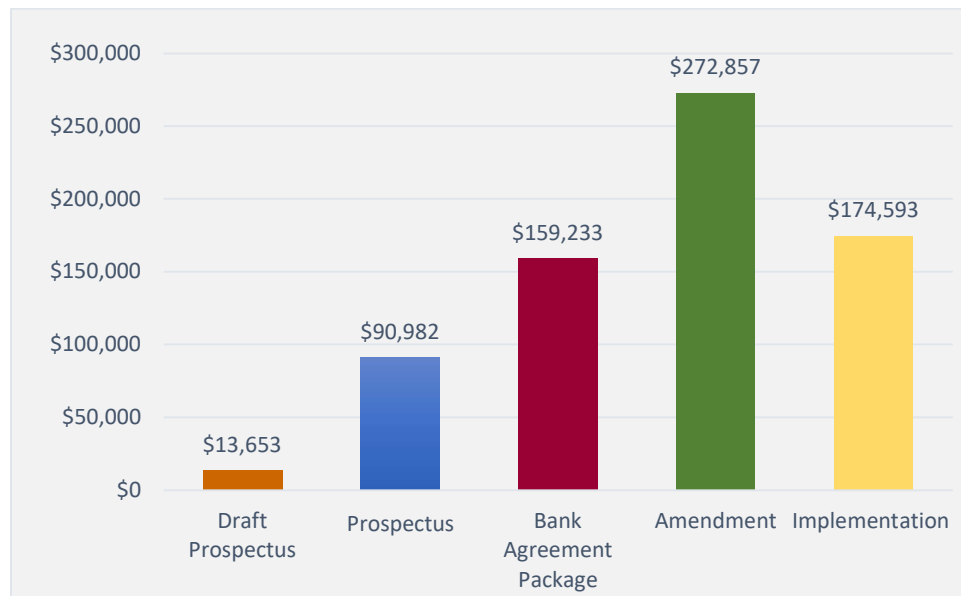
### Review timelines

Application documents that have a two-part review process also have two review timelines. CDFW has 30 days to notify a bank sponsor of the document's completeness status and 90 days for acceptability status. CDFW also has 30 days to evaluate draft prospectuses. CDFW's review was on time for 42% of 45 review timelines. Some review timelines were not met due to high workload demands on limited staff resources, staff turnover, incomplete documents or delays outside of CDFW's control, such as reviews required by other prospective signatory agencies that do not have required review timelines. With additional staff and resources allocated in the 2024 year, CDFW anticipates hitting more milestones in the next legislation cycle.

### Fees

CDFW collects fees to support the Banking Program. Fees pay for staff to review and approve proposed banks, and for CDFW's implementation and compliance costs. In 2023, the Banking Program received fees from bank application documents or for implementation for a total of \$711,317, which is up from under \$300,000 in 2022. This supported the equivalent of 2.2 staff across six CDFW regions (Chart 2). Since 2013, the Banking Program has collected a total of \$5.12 million in fees.

**Chart 2. Fees collected for each bank application document or for implementation in 2023**



### Banks and Effectiveness of the Program

Once a bank is approved, the Banking Enabling Instrument (BEI) must be fully executed by all parties and the bank sponsor must meet several criteria before the bank is considered established. When a bank is established, a percentage of credits are available for sale. In 2023, three new banks were established (Appendix B). More information about established banks are located at the [Conservation and Mitigation Banks Established in California by CDFW](#) web page.

Review of new banks is only a portion of the Banking Program's role. CDFW is signatory to 93 banks, covering approximately 72,508 acres, which CDFW staff oversee and monitor to ensure that banks are achieving their conservation objectives in perpetuity (Appendix B). Approximately 45,309 credits have been sold and 28 banks have closed or sold out of credits, and CDFW is responsible to continue oversight of these credits and banks to ensure each bank is managed, monitored, and maintained in perpetuity for its natural resource value.

The Banking Program also develops and updates policies and procedures. In 2011, CDFW entered into a Memorandum of Understanding with other state and federal agencies involved in mitigation and conservation banking in California. These agencies work together to improve program effectiveness and efficiency of the bank development and approval process. The statewide multi-agency banking work group known as the Project Delivery Team (PDT), collaborates with stakeholders and the banking community to evaluate and adapt the Banking Program to meet current needs and uphold standards. In 2021, the PDT updated the BEI template to enable permittees to purchase credits in advance and later

transfer those credits to future acceptable permitted projects. Since then, the PDT developed and released a Model Amendment template to streamline the process for current banks that would like to start selling advance credits. The PDT also updated the Credit Sales Agreement and associated Credit Transfer Agreement, Credit Sale and Transfer Agreement, and Credit Transfer Ledger Template documents from the 2021 credit agreement templates. Additionally, the PDT also released an updated Property Assessment and Warranty template in May 2023. As of December 2023, the PDT released an updated BEI template that will include an additional security for public notice. The PDT is also collaborating on updating the Long-Term Management Plan template, the Conservation Easement template, and drafting a new Development plan template. CDFW, the US Fish and Wildlife Service, and the National Marine Fisheries Service are collaborating on drafting the Conservation Banking Enabling Instrument.

## Conclusion

Conservation and mitigation banks play an important role in landscape conservation and recovery of species by increasing already conserved lands and providing critical habitat including protecting core populations or linkages. Over the last 12 months, the fee-based Banking Program continued to be a mutually beneficial strategy for bank sponsors, regulatory agencies, and permittees. The continued interest in and development of new conservation and mitigation banks highlight the benefits of the Banking Program and the increasing demand for CDFW staff to review and oversee new banks. CDFW hopes that the additional resources allocated to the program will better meet the needs of the program.

Due to the demanding needs for mitigation, a robust Banking Program, including desired credits in affected locations, enables a mutually beneficial strategy for permittees and for conservation. The Banking Program highlights a strategy for banks that, once established, “cuts the green tape” by providing a more efficient and streamlined mitigation process for permitting projects impacting natural resources. CDFW supports the use of the Banking Program as it provides mitigation before impacts, protects large reserves, protects critical habitat, and leverages financial resources and biological expertise for long-term management.

CDFW will continue to work with the banking community to assess ways to support and encourage conservation and mitigation banking. Collaboration with partners, including bank sponsors, landowners, permittees, federal, state, and local agencies, are critical components in a successful Banking Program. With open communication, responsiveness, and sharing success stories, we hope to approve new banks where private sector entrepreneurs will help CDFW reach our conservation goals for sensitive resources.



## APPENDIX A

**Fish and Game Code – Reporting Requirements****1799.**

(d) By January 1, 2014, and annually thereafter, the department shall provide a report to the Legislature. The report shall include the following information based on data from the previous calendar year:

(1) Number of new bank applications, prospectuses, bank agreement packages, and amendments received.

(2) Number of bank applications approved, rejected because not complete, rejected because not acceptable, and withdrawn.

(3) Name of new or existing bank, geographic location, number of acres, number of credits approved for each habitat type or species, and number of credits sold.

(4) An accounting of fees collected pursuant to this chapter.

(5) A statement of whether or not the timelines for bank review in this chapter were met.

(6) Other information determined by the department to be relevant in assessing the effectiveness of the department's mitigation and conservation banking program.

*(Added by Stats. 2012, Ch. 565, Sec. 14. Effective January 1, 2013.)*