



**US Army Corps
of Engineers®**
St. Paul District



Informational Public Notice

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Financial Assurances Flexibility for Wisconsin Mitigation Bank Sites

The U.S. Army Corps of Engineers St. Paul District (Corps) and the Wisconsin Department of Natural Resources (DNR) are sharing information on agency flexibility related to providing financial assurances (FA) and requesting releases of FAs upon achieving certain construction and performance milestones on mitigation bank sites in Wisconsin¹.

Historically, the Corps and DNR (the agencies) required sponsors to provide 100% of construction and maintenance FAs prior to the initial release of 10% credits upon execution of the mitigation bank instrument (MBI), recording of the conservation easement and provision of the title insurance policy. However, there was not a consistent standard for sponsors requesting full or partial release of those FAs as the site met milestones.

Recently, the agencies have focused on frontloading performance-based releases earlier in the monitoring period² for sites predominantly involving re-establishment. When the agencies agree that a site involves predominantly re-establishment, the agencies will approve a release of 10% projected credits prior to construction, 10% upon approval of construction and planting, and 40% for achieving target wetland hydrology standards for two growing seasons demonstrating the restoration was successful. Concurrently, the agencies could approve 5% of credits for achieving your Interim 1 vegetation standard. This means after two years of monitoring, sponsors could receive up to 65% of total

¹ This public notice does not currently apply to most sites in Minnesota because the Wetland Conservation Act includes some limitations on up front releases. An exception would include stream-only mitigation banks not requiring state approval.

² Review the 2025 WI Guidelines and 2021 Informational PN on flexible hydrology credit releases.

projected credits with the remainder based on vegetation improvements in the last three or more years.

Due to our confidence in current site selection and approval practices and the reliability of typical performance standards (PS)³ and credit release schedules to assure successful wetland and stream restoration projects, the agencies offer the following opportunities for facilitating flexible partial financial assurances releases:

- Provision of Maintenance FAs only: Sponsors can propose to only provide a maintenance assurance and not a construction assurance if their credit release schedule withholds any credit release (20%) until after completion of satisfactory construction and planting.
- Delayed Provision of Maintenance FAs: Sponsors can propose to provide the construction FA prior to the initial 10% credit release, then roll it into the maintenance assurance after completion of construction and planting, rather than providing both prior to initial release. This requires that the as-built report be provided to the agencies, completion of an agency site visit to verify construction and planting, and written DNR approval for the release of construction FA into the maintenance FA. Documentation that the maintenance FA has been provided to the DNR is required before the Corps approves the as-built credit release⁴.
- Partial Release of Maintenance FAs Tied to Site Progress and Performance:
 - To ensure consistency of partial releases among banks and that sufficient funds will remain for maintenance activities through the required monitoring period, the agencies are implementing a partial release schedule. Sponsors can propose partial maintenance FA releases based on the trend of the site toward success and achieving final PS. The agencies will consider approving maintenance FA release schedules that are simple and tied to the site achieving certain performance milestones rather than performance of individual communities. This guarantees that the remaining FA offsets agency

³ Refer to Target Hydrology Performance Standards Procedures and Target Vegetation Performance Standards Procedures.

⁴ For FA vendors who won't release the construction assurance until they have proof that the agencies have accepted construction, the DNR can issue a letter saying we will approve the as-built release once the maintenance FA is provided.

risk and ensures sufficient funds remain for the DNR to complete site maintenance if the sponsor fails to provide timely site compliance.

- Wetland maintenance assurance releases are based on achievement of the hydrology PS across the site followed by Interim 2 PS, with all remaining financial assurances withheld until final PS are achieved and the final delineation and credit determination are completed⁵. No release for Interim 1 PS will be granted as this one-year standard demonstrates minimal vegetation establishment rather than a trend toward site success. In addition, it is common for vegetative conditions onsite to stagnate for a period after the first monitoring year.⁶
- The agencies reserve the right to withhold partial releases based on the site's overall trend toward success and past compliance issues.
- While the approval of partial releases is based on achievement of specific PS, the MBI's partial FA release schedule and amounts should be based on the FAs itemized costs no longer needed to achieve final PS. The FA release schedule should include both the trigger and threshold for release and specify the amount of FA to be released.

Wetland Maintenance Financial Assurance Release Schedule

Maintenance Release Trigger	Threshold for Release	Amount of Release (Monetary)
Hydrology Performance	All communities onsite have met Hydrology PS	Based on the itemized costs associated with monitoring hydrology (reports, well installation, etc.)
Interim 2 Vegetation Performance	All communities onsite have met Interim 2 PS	Based on projected management costs associated with achieving Interim 2 PS (monitoring for 2 GS),

⁵ As a final note, sponsors should be aware that the timing of your FA release could be dependent on the type of FA you choose to provide. For example, if utilizing a letter of credit, your renewal date may not come at the same time your monitoring demonstrates site performance, so your FA provider could delay the release until the next renewal date.

⁶ Sites dominated by enhancement may not be eligible for partial FA releases.

		withholding sufficient to manage and monitor for final PS
Final Vegetation Performance	Final PS met; final delineation complete	All remaining funds

- Similarly, stream maintenance assurance releases are based on achievement of the Second Interim Stream Quantification Tool (SQT) PS across all reaches, with all remaining financial assurances withheld until final SQT PS are achieved.

Stream Maintenance Financial Assurance Release Schedule

Maintenance FA Release	Trigger for Release	Amount of FA Release (Monetary)
Second Interim SQT PS	All reaches have met their second interim SQT PS	Based on the itemized costs associated with monitoring and managing stream reaches to achieve second interim PS
Final SQT PS	All reaches have met their final SQT PS	All remaining funds

To facilitate agency review of proposed FA release schedules, sponsors should ensure their MBIs include the following for both construction and maintenance:

- An itemized cost breakdown for construction/planting (for as-built) versus maintenance and monitoring and for wetland versus stream activities.
- Include a contingency amount (typically 10%) to account for inflation and unexpected costs during the monitoring period.
- Include all site specific and general maintenance and monitoring costs, such as the final wetland delineation.
- Are not reduced to account for labor or materials the sponsors can provide on their own. FAs must be based on the cost to the DNR as the FA beneficiary. The agencies may require you to provide a quote from a contractor to support unexpectedly low projections.

Example Itemized Financial Assurance Breakdown

Construction Phase	
Activity	Probable Cost
Permitting	
Tile Disablement	
Grading, filling, excavating, sediment & erosion control	
Herbicide and vegetation clearing/management	
Seeds, woody vegetation, plugs	
Monitoring well installation	
Consulting	
Manual labor/construction oversight	
Tree cages/deer fencing	
Signage	
As-built report and survey	
Total	

Maintenance and Monitoring Phase - Yearly Probable Costs (10-Year Monitoring Phase Example)								
	Data logger deployment/ hydrology monitoring	Vegetation monitoring & management (surveys, herbicide, mowing, etc.)	Consulting	Data review /monitoring report	Wetland Delineation	Final repairs/ updates	Adaptive management	Total Cost
Year 1								
Year 2								
Year 3								
Year 4								
Year 5								
Year 6								
Year 7								
Year 8								
Year 9								
Year 10								

Approved MBIs that already include a specific FA release schedule will be honored and do not require modification to follow this guide. Approved MBIs that allow for partial releases but do not include a specific FA release schedule can follow this guide provided FA amounts are sufficiently itemized. Before submitting a final MBI for agency review that includes the flexibilities described above, sponsors should discuss their proposal with the agencies to prevent delays in bank approval.

Please contact the St. Paul District Mitigation Coordinator, Leslie Day, (Leslie.E.Day@usace.army.mil) and the Wisconsin DNR Wetland Mitigation Coordinator, Chelsey Lundeen (Chelsey.Lundeen@wisconsin.gov), with any questions.