



# Stream Mitigation Newsletter

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## Breaking News

The U.S. Army Corps of Engineers St Paul District (Corps) expects to release Version 1 of its Stream Mitigation Procedures soon. The U.S. Environmental Protection Agency, Minnesota Department of Natural Resources (DNR), Wisconsin DNR, the Board of Soil and Water Resources, and the Minnesota Pollution Control Agency have provided helpful feedback that the Corps is incorporating into the document. The Procedures will outline how the Corps intends to use the Stream Quantification Tool and Debit Calculator to inform decisions on the quantification of stream losses (debits) and restoration gains (credits). While we finish the Procedures, we are providing this newsletter to answer frequently asked questions (FAQs).

## Coming Soon!

- ◆ SQT Regionalized for Wisconsin
- ◆ MBI Template Updates for MN and WI

## Available Now!

- ◆ Prospectus and Mitigation Plan Completeness Determination Checklists—updated to address streams
- ◆ Site Selection Criteria Checklist—wetlands and streams



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## To Stream or not to Stream?

The first crucial step in determining if your project will require compensatory mitigation is for you to identify all aquatic resources, including streams, in your project area. The Corps has developed the Stream Features Worksheet to aid in the identification of streams within your project area. For a copy of this worksheet, contact your Corps Project Manager (PM). Please note you should also provide information on any ditches in your project area.

Ordinary High Water Mark (OHWM) is used to delineate the lateral extent of the stream resource, much like wetland indicators are used in wetland delineations. OHWM indicators include soil, vegetation and channel indicators. See RGL 05-05 or contact your Corps PM for more information on identifying the OHWM.

Once you have identified all streams in the project area, you should provide information about flow regime (see definitions below). Provide all completed information and the Corps will evaluate your delineation and make a jurisdictional determination.

*Perennial:* The term perennial means surface water flowing continuously year-round.

*Intermittent:* The term intermittent means surface water flowing continuously during certain times of the year and more than in direct response to precipitation (e.g., seasonally when the groundwater table is elevated or when snowpack melts).

*Ephemeral:* The term ephemeral means surface water flowing or pooling only in direct response to precipitation (e.g., rain or snow fall).

For more information on the revised definition of waters of the US, see 33 CFR 328.3. You may also find more details here: <https://www.federalregister.gov/documents/2020/04/21/2020-02500/the-navigable-waters-protection-rule-definition-of-waters-of-the-united-states>

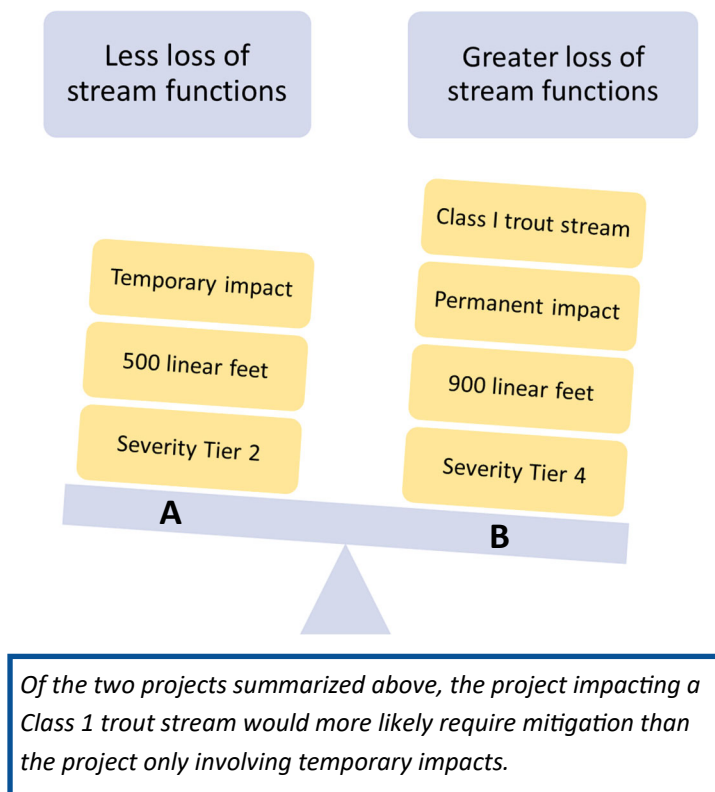
# When will the Corps Require Compensatory Stream Mitigation?

The Corps will determine the need for compensatory stream mitigation on a case-by-case basis when evaluating permit applications. As loss of functions increase, so will the likelihood that the Corps will require compensatory mitigation. Severity Tiers as shown in this table classify activities by how they affect stream functions. Note, when combined with other factors, some activities may fall in a different severity tier than listed here.

Tier	Description (Impacts to function-based parameters)	Example Activities
0	No permanent impact on any of the key function-based parameters	Bio-engineering of streambanks, stream restoration
1	Impacts to riparian vegetation and/or lateral migration	Bank stabilization, two-stage ditch, utility crossings.
2	Impacts to riparian vegetation, lateral migration, and bed form diversity	Utility crossing, two-stage ditch, bridges, bottomless arch culverts
3	Impacts to riparian vegetation, lateral migration, bed form diversity, and floodplain connectivity	Bottomless arch culverts, minor channelization
4	Impacts to riparian vegetation, lateral migration, bed form diversity, and floodplain connectivity. Potential impacts to temperature, processing of organic matter, and macroinvertebrate and fish communities	Channelization, box culverts, short length pipe culverts, weirs/impoundments/flood, and minor relocations
5	Removal of all aquatic functions	Piping, relocation, removal or complete fill of channel

- The Corps will likely require compensatory mitigation for most activities that remove all aquatic functions (Tier 5)
- The Corps will likely require the SQT to demonstrate no net loss of functions on relocation projects unless designed for the purpose of stream restoration
- The Corps will evaluate lower severity tier impacts (Tiers 1 -4) in combination with other factors (e.g. length, duration, location) on a case-by-case basis to determine if compensatory mitigation is required.

## Consider this...



## When will my project NOT require mitigation?

The Corps will generally **not** require compensatory mitigation for projects comprised of bioengineering stream banks for erosion control, maintenance activities, and projects eligible for authorization under Nationwide Permit 27 (Aquatic Habitat Restoration, Enhancement, and Establishment Activities). The Corps will **not** require compensatory mitigation for activities that are not regulated or are exempt from regulation under Section 404.

## Stream credits?!

### We need stream credits!

- ◆ The Corps is looking more closely at projects with stream impacts. We will require compensation to offset stream impacts when necessary to ensure impacts are no more than minimal (if verified by GP) or to offset impacts that are more than minimal (IPs).
- ◆ Stream credits will be functional feet, NOT linear feet or acres or wetland credits.
- ◆ Generally wetlands credits are not appropriate to offset stream losses, or vice versa. Doing so would represent out of kind compensation, which is the last option as described in the federal mitigation rule (33 CFR 332).

Contact us early to discuss how you can address these FAQs on your mitigation site!

[StPaulSQT@usace.army.mil](mailto:StPaulSQT@usace.army.mil)

- ◆ Does my stream need restoration and is it eligible for credit?
- ◆ What data will I need to collect to get through the bank review process?
- ◆ Can I get wetland credit within the stream's effective riparian area? If so, how much?

## Adding a Stream Component to a Proposed Mitigation Site FAQs

**Q:** If I think there may be potential for stream restoration on my mitigation site, should I talk to the Corps? Even if it wasn't part of the original proposal?

**A:** You can resubmit compensatory mitigation bank proposals under review to include a stream restoration component. But, if you've passed the Prospectus phase already, you must submit a revised Prospectus so the IRT can assess stream mitigation potential.

**Q:** When does a sponsor need to complete the full SQT?

**A:** A sponsor needs to complete the full SQT for existing and proposed (using design) condition to calculate functional lift (credits/offset) at the DMBI phase.

**Q:** Can I add stream restoration to an approved bank?

**A:** The Corps will make this decision on a case by case basis. Adding a stream restoration component with stream credits to an approved bank would require modification of the existing MBI. If you believe you have stream restoration potential at your bank, please contact the Corps to discuss.

