

**Interim Policy for Establishing
Fish Habitat Banks to Support
the Administration of the
Fisheries Act and the *Species at
Risk Act***

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Fisheries and Oceans
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Pêches et Océans
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Purpose

The ‘Interim Policy for Establishing Fish Habitat Banks to Support the Administration of the *Fisheries Act* and the *Species at Risk Act*’ (the Policy) provides guidance on planning, establishing and managing fish habitat banks. This Policy is part of a suite of guidance documents prepared by Fisheries and Oceans Canada (the Department) to support the implementation of the fish and fish habitat protection provisions of the *Fisheries Act*. It builds on the general policy guidance provided in the ‘Fish and Fish Habitat Protection Policy Statement’ (2019)¹ and the ‘Policy for Applying Measures to Offset Adverse Effects on Fish and Fish Habitat Under the *Fisheries Act*’ (2019)² (the Offsetting Policy). The Policy is being released in interim form as the Department works to modernize its policies on offsetting and fish habitat banking. A modernized policy that covers both offsetting and fish habitat banking will be released at the end of the process. Information on modernization and opportunities for engagement in the modernization process can be found at [Fisheries and Oceans Canada’s Fish and Fish Habitat Protection Program’s Engagement Platform](#).

The Policy was prepared by the Department to assist proponents of development projects (i.e., works, undertakings and activities) in establishing fish habitat banks and using their habitat credits³ that their bank generate to offset the residual adverse effects to fish and fish habitat of their development projects. The policy also provides guidance to Departmental staff on the approval and administration of those banks.

The Policy is organized into three parts:

Part 1 provides background legislative and policy context for fish habitat banks;

Part 2 provides the process for establishing, managing, and operating fish habitat banks; and

Part 3 provides contact information and links for more information.

Context

Canada's fish and fish habitat are shared resources that provide social, cultural, economic, environmental, ecological, and spiritual benefits to Canadians. Fisheries, oceans, aquatic habitat and marine ecosystems are of great social, cultural, spiritual, and economic importance to many Indigenous Peoples.

These important natural resources are also limited and vulnerable. They should therefore be conserved and protected to maintain these benefits for present and future generations.

¹ The *Fish and Fish Habitat Protection Policy Statement* (2019) or any updated policy(ies) that supersede this policy.

² The *Policy for Applying Measures to Offset Adverse Effects on Fish and Fish Habitat Under the Fisheries Act* (2019) or any updated policy(ies) that supersede this policy.

³ Section 42.01 of the *Fisheries Act* defines ‘habitat credit’ as a unit of measure that is agreed to between any proponent and the Minister under section 42.02 that quantifies the benefits of a conservation project.

Indigenous peoples have been fishing for many generations in Canada's oceans, along its coasts, in lakes, and in rivers. Commercial fisheries, including Indigenous commercial fisheries, and recreational fisheries generate billions of dollars every year for the Canadian economy. Canada's water bodies and watercourses, including coastal and marine areas, lakes, ponds, rivers, streams, and wetlands, provide important habitat for fish. The production of fish is inextricably linked to the health of the ecosystems on which fish depend—directly or indirectly—to carry out their life processes, and the health of fish populations those ecosystems support. They also need unobstructed corridors to migrate between these areas. Healthy fish habitats with healthy abundant fish populations are necessary so that the fisheries resources continue to provide all the benefits mentioned above to current and future generations of Canadians.

Fish and fish habitat in Canada are threatened by multiple and interrelated factors, including habitat destruction and degradation; harmful habitat modification; aquatic invasive species; overexploitation of fish populations; water pollution; and climate change. These threats can accumulate and have unforeseen or unpredictable consequences for fish and fish habitat. While many of these threats are beyond the control of any single regulatory body or individual, their adverse effects should be managed collectively to conserve and protect fish and fish habitat.

The *Fisheries Act* provides a framework for the conservation and protection of fish and fish habitat by ensuring their protection and providing tools to do so, providing certainty for industry, stakeholders, and Indigenous groups, and promoting the long-term sustainability of aquatic resources. The Department conserves and protects fish and fish habitat by applying the relevant provisions of the *Fisheries Act*, in combination with those of the *Species at Risk Act*, and the *Aquatic Invasive Species Regulations*, to regulate development projects that could otherwise result in adverse effects to fish and fish habitat. The Department also has tools for the conservation and protection of fish and fish habitat, that provide certainty for Indigenous peoples of Canada, industry sectors and other stakeholders to ensure the long-term sustainability of our aquatic resources.

Disclaimer

The 'Interim Policy for Establishing Fish Habitat Banks to Support the Administration of the *Fisheries Act* and the *Species at Risk Act*' is not a substitute for the *Fisheries Act*, *Species at Risk Act*, or associated regulations. In the event of an inconsistency between this Policy and the *Fisheries Act*, the *Species at Risk Act*, and associated Regulations, the legislation and regulations will prevail.

Approval Authority, Coming Into Force Date, and Review Frequency

The 'Interim Policy for Establishing Fish Habitat Banks to Support the Administration of the *Fisheries Act* and the *Species at Risk Act*' was approved by Fisheries and Oceans Canada and is in effect as of January 2021. It will be reviewed every five years.

Part 1: Legislative and Policy Background for Fish Habitat Banks

The Department is responsible for administering the Fish and Fish Habitat Protection Provisions of the *Fisheries Act* and certain provisions of the *Species at Risk Act*. It shares the responsibility for implementing the *Species at Risk Act* with Parks Canada Agency and Environment and Climate Change Canada. The Minister of Fisheries, Oceans and the Canadian Coast Guard (the Minister) is the competent minister responsible for aquatic species at risk, other than those in or on federal lands administered by Parks Canada.

Proponents of development projects have an important role to play in the conservation and protection of fish and fish habitat. They are responsible for complying with all relevant aspects of the *Fisheries Act*, the *Species at Risk Act*, and associated regulations. Where a proposed project is likely to result in adverse effects to fish and fish habitat, it is the proponent's responsibility to apply for the necessary authorization or permit, and if granted, comply with all of the conditions stipulated by the approval.

The fish and fish habitat protection provisions of the *Fisheries Act* provide the context to conserve and protect fish and fish habitat, and include:

- a prohibition against works, undertakings or activities resulting in the death of fish, by means other than fishing (subsection 34.4(1)), unless otherwise authorized by the Minister (pursuant to subsection 34.4(2));
- a prohibition against works, undertakings or activities resulting in the harmful alteration, disruption or destruction of fish habitat (subsection 35(1), unless otherwise authorized by the Minister (pursuant to subsection 35(2));
- factors to consider (i.e., subsection 34.1(1)) to guide the Minister's regulatory decision making (e.g., decisions to authorize a work, undertaking or activity pursuant to paragraphs 34.4(2)(b) and 35(2)(b));
- ministerial powers to ensure free fish passage, sufficient water flows, and to manage or control obstructions for the protection of fish or fish habitat (section 34.3); and
- ministerial authorities related to fish habitat banks (sections 42.01 to 42.04).

When applying these provisions, the Department will be informed by the best available science, technical information and Indigenous knowledge provided to the Minister, when making decisions. It will also be guided by the application of a precautionary approach⁴, an ecosystem approach⁵, and/or a risk-based approach to decision-making, as warranted.

When making a decision under the *Fisheries Act*, the Minister will further consider any adverse effects that the decision may have on the rights of the Indigenous peoples of Canada recognized and affirmed by Section 35 of the *Constitution Act, 1982*.

⁴ See the [Sustainable Fisheries Framework](#) for the Department's perspective on the precautionary approach.

⁵ See the [Principles of Ecosystem-Based Fisheries Management](#) for the Department's perspective on the ecosystem approach.

Similarly, the *Species at Risk Act* also includes provisions to protect species at risk listed under Schedule 1, which apply to aquatic species at risk for which the Minister is responsible. Under the *Species at Risk Act*, it is an offence to:

- kill, harm, harass, capture or take an individual of a species that is listed as extirpated, endangered or threatened (subsection 32(1));
- possess, collect, buy, sell or trade an individual of a species that is listed as extirpated, endangered or threatened, or any of its parts or derivatives (subsection 32(2));
- damage or destroy the residence of one or more individuals of a species that is listed as endangered or threatened, or of a species listed as extirpated if a recovery strategy has recommended its reintroduction into the wild in Canada (section 33); and,
- destroy critical habitat (subsection 58(1));).

However, the *Species at Risk Act* allows for the above listed prohibitions to take place without contravening the Act by permit under subsection 73(1) or authorization pursuant to section 74. Before issuing a permit or a *Fisheries Act* authorization that acts as a *Species at Risk Act* permit (i.e., pursuant to section 74 of the *Species at Risk Act*), the Minister must be of the opinion that the requirements of subsections 73(2) to (6.1) are met.

The management of aquatic invasive species is a responsibility shared by federal, provincial and territorial jurisdictions. The federal *Aquatic Invasive Species Regulations* (2015), made under the authority of the *Fisheries Act*, provide a suite of regulatory tools that can be used by federal, provincial and territorial authorities to prevent the introduction of aquatic invasive species into Canadian waters and to control and manage their establishment and spread, if introduced. These tools include prohibitions, directions, measures, and licenses to fish for invasive species and are aimed at protecting fish, fish habitat and use of fish from the threat of aquatic invasive species. Pursuant to section 19 of the *Aquatic Invasive Species Regulations*, the Minister or other prescribed persons under section 18 of the Regulation, may authorize the deposit of deleterious substances authorized under the *Food and Drugs Act* or the *Pest Control Products Act*, to prevent the introduction or spread of, or to control or eradicate, species subject to the Regulations.

Before making a decision to authorize works, undertakings or activities that would result in the death of fish, or the harmful alteration, disruption or destruction of fish habitat, the Minister must consider if there are measures to avoid adverse effects on fish and fish habitat. If the adverse effects on fish and fish habitat are unavoidable, the Minister must consider if there are measures to mitigate that would reduce or minimize those adverse effects. Finally, if there are any residual adverse effects on fish and fish habitat, then the Minister must consider measures to offset that would counterbalance the death of fish and/or the harmful alteration, disruption or destruction of fish habitat.

Comparably, prior to making a decision to permit or authorize adverse effects on a listed aquatic species at risk, their critical habitat or residence (among other things), the Minister must be of the opinion that:

- all reasonable alternatives to the activity that would reduce the impact on the species have been considered and the best solution has been adopted (i.e., measures to avoid and/or mitigate adverse effects);

- all feasible measures will be taken to minimize the impact of the activity on the species, its critical habitat or residences (i.e., measures to mitigate and/or offset residual adverse effects); and
- the activity will not jeopardize the survival or recovery of the species.

Fish habitat banking is a formalized approach for a proponent to create measures to offset (i.e., conservation projects⁶) required under the *Authorizations Concerning Fish and Fish Habitat Protection Regulations*, for their own future use⁷, in advance of applying for a *Fisheries Act* authorization. The *Fisheries Act* provides definitions of terminology for fish habitat banking in section 42.01. A fish habitat bank is defined as an area of a fish habitat that has been restored, enhanced or created by the carrying on of one or more conservation projects within a service area⁸ and in respect of which area the Minister has certified any habitat credit⁹. Under subsection 42.02(2) and paragraph 42.02(1)(a), the Act gives the Minister powers to enter into habitat bank arrangements with any proponent and to establish a system for the creation, allocation and management of a proponent's habitat credits in relation to a conservation project.

A fish habitat bank and the associated conservation projects are defined areas of a watercourse, waterbody or the ocean designated and managed to create, restore or enhance fish habitat capable of producing and sustaining fish. The resulting fish habitat is then set aside and counted as habitat credits. The future adverse effects on fish and fish habitat resulting from the proponent's works, undertakings or activities (i.e., development project), for which an authorization is being sought, are considered debits.

The proponent that has established the fish habitat bank may withdraw certified habitat credits from the habitat credit ledger to offset the adverse effects to fish and fish habitat resulting from the carrying on of development projects within the service area. When the balance of habitat credits in the habitat bank reaches zero, and there are no existing or proposed conservation projects with habitat credits pending certification, the bank is closed and no more "withdrawals" can be made.

It is important to note that habitat credits targeting a specific aquatic species at risk must be tracked separately, and must provide ecological benefits specific to the target aquatic species at risk. Recovery strategies, action plans and/or management plans for that specific aquatic species at risk provide a good source of information for the ecological requirements for these species and how to support the recovery of the species.

⁶ Section 42.01 of the *Fisheries Act* defines 'conservation project' as a work, undertaking or activity that is carried on by a proponent for the purpose of creating, restoring or enhancing fish habitat within a service area in order to acquire habitat credits

⁷ Section 42.03 of the *Fisheries Act* states that a proponent may only use their certified habitat credits in respect of a fish habitat bank within a service area to offset the adverse effects on fish or fish habitat from the carrying on of a work, undertaking or activity authorized or permitted to be carried on in that service area. The sale, barter or trade of fish habitat credits are not allowed.

⁸ Section 42.01 of the *Fisheries Act* defines 'service area' as the geographical area that encompasses a fish habitat bank and one or more conservation projects and within which area a proponent carries on a work, undertaking or activity.

⁹ Section 42.01 of the *Fisheries Act* defines 'habitat credit' as a unit of measure that is agreed to between any proponent and the Minister under section 42.02 that quantifies the benefits of a conservation project.

Fish habitat banks may be useful for proponents of development projects where:

- a large number of adverse effects, each affecting a small geographic area, arise from a single large project; or
- adverse effects on fish and fish habitat may result from a number of projects.

An additional benefit of habitat banking is that the bank is established in advance of the works, undertakings or activities that would result in adverse effects requiring an authorization and an offsetting plan. Consequently, the risk of defaults on the implementation of an offsetting plan is eliminated, there is less uncertainty related to the effectiveness of the measures to offset and there is no time lag for the habitat to become functional, which, if aquatic species at risk are affected, will help the Minister arrive at the opinion that the activity will not jeopardize survival and recovery of the species. Finally, fish habitat banks may help reduce the time and resources required to issue authorizations or permits under the *Fisheries Act* or *Species at Risk Act*; because the value of the habitat credits within the habitat bank is known, the development of the offsetting plan is simplified. There are also financial savings for the proponent related to the financial assurance (e.g., letter of credit) to guarantee the implementation of the offsetting plan, because the need for financial assurance is reduced or eliminated, relative to the costs to implement the offsetting plan not addressed by the habitat credits.

Considering the Rights and Perspectives of Indigenous Peoples

Section 35 of the *Constitution Act, 1982* recognizes and affirms the existing Aboriginal and treaty rights of Indigenous peoples of Canada. The Department consults with Indigenous peoples when Aboriginal and treaty rights may potentially be adversely impacted by its decisions under the *Fisheries Act* and *Species at Risk Act*.

Section 2.4 of the *Fisheries Act* requires the Minister to consider any adverse effects on the rights of Indigenous peoples when making decisions under the *Fisheries Act*. This includes any decision to:

- enter into an arrangement respecting a fish habitat bank, which includes at least one conservation project and defined service area;
- approve additional conservation projects and the associated defined service area; and
- authorize any work, undertaking or activity proposing to use habitat credits to offset the adverse effects on fish and fish habitat in whole, or in part.

These decisions are all considered to be Crown conduct and trigger the duty to consult when Aboriginal or treaty rights may potentially be adversely affected. For more information about the

Crown's duty to consult please see the '[Updated Guidelines for Federal Officials to Fulfill the Duty to Consult](#)',¹⁰.

The Department encourages proponents to adopt the good practice of engaging early and often with Indigenous peoples in all phases of offsetting and habitat banking (i.e., planning, design and implementation). Indigenous peoples can inform the design of measures to manage adverse effects on fish and fish habitat and to offset residual adverse effects on fish and fish habitat. They can also inform about measures that may mitigate or accommodate adverse impacts to asserted or established Aboriginal or Treaty Rights (e.g., fishing).

Guiding Principles

The Department will be guided by the following principles for the renewal or creation of fish habitat banks:

- Fish habitat banks will be managed under a formal arrangement between the Department and each proponent. Fish habitat bank arrangements are intended to address all of a proponent's fish habitat banking activities (e.g., fish habitat banks in more than one provinces under a single arrangement).
- The activities pursuant to a fish habitat bank arrangement must meet the principles established in the Offsetting Policy. For example, only proposed development projects that demonstrate adherence to the hierarchy of measures¹¹, outlined in the Offsetting Policy, will be considered for eligibility to use the habitat credits from a fish habitat bank. The Department emphasizes the use of measures to avoid, and then mitigate the predicted adverse effects on fish and fish habitat as the first and second steps in the hierarchy of measures, followed by measures to offset the residual adverse effects on fish and fish habitat as a means of last resort.
- Similarly, adverse effects on a listed aquatic species at risk, or the destruction of any part of its critical habitat or residence that require authorization under the *Species at Risk Act*, also requires the consideration of all reasonable alternatives, select the best option and apply all feasible mitigation measures to avoid adverse effects to the extent possible, then minimize any unavoidable effects. Finally, the activity cannot jeopardize the survival or recovery of species at risk.

¹⁰ Government of Canada. Department of Aboriginal Affairs and Northern Development Canada. 2011. Updated Guidelines for Federal Officials to Fulfill the Duty to Consult. (https://www.rcaanc-cirnac.gc.ca/DAM/DAM-CIRNAC-RCAANC/DAM-CNSLTENGE/STAGING/texte-text/intgui_1100100014665_eng.pdf).

¹¹ The hierarchy of measures are outlined in the *Policy for Applying Measures to Offset Adverse Effects on Fish and Fish Habitat Under the Fisheries Act* (2019).

- Fish habitat banks should employ an adaptive management approach informed by the findings of monitoring the appropriate fish habitat indicators and performance targets, and making adjustments, as required. This ensures that the identified fish habitat benefits are achieved in advance of any adverse effects on fish and fish habitat from the proposed work, undertaking or activity that habitat credits from the fish habitat bank may be used to offset.
- Where aquatic species at risk are present, the activities (e.g., implementing a conservation project, or considering the use of a habitat credit) pursuant to a fish habitat bank arrangement must consider the listed species and its habitats. These activities should not negatively affect the listed aquatic species at risk, and where possible encourage conservation projects that benefit aquatic species at risk. The Minister has developed and approved recovery strategies, action plans and management plans for aquatic species at risk in Canada, that detail priority recovery measures necessary for the survival or recovery of aquatic species at risk¹².

Part 2: Establishing, Managing, and Operating Fish Habitat Banks

A fish habitat bank may be established by a proponent of development projects that have the potential to adversely impact fish and fish habitat, for their own use, under an arrangement with the Department. The fish habitat banking process has three distinct phases, as follows:

1. establishing, managing and operating a fish habitat bank (i.e., the arrangement);
2. defining the service area(s) and managing conservation projects; and
3. managing habitat credits and applying them to an application for authorization.

The three phases and the several steps involved in the establishment, management and operation of a fish habitat bank are described below (see Figure 1).

Phase 1: Establishing, Managing and Operating a Fish Habitat Bank

The purpose of a fish habitat bank arrangement is to set the terms and conditions for its creation and management by: establishing a working relationship between the participants based on trust, accountability and information sharing; establishing a transparent process for managing a fish habitat bank; and, increasing certainty in the administration and management of a fish habitat bank. The arrangement between the Minister and the proponent respecting a fish habitat bank should abide by the following conditions:

- A fish habitat bank can only be established, managed and operated according to the fish habitat bank arrangement. Subsection 42.02(3) of the *Fisheries Act* outlines what must be included in a fish habitat bank arrangement, including:

¹² Canada. Species at Risk Public Registry (<https://www.canada.ca/en/environment-climate-change/services/species-risk-public-registry.html>).

- a. any document and other information that describes the proposed fish habitat bank, conservation project and service area;
 - b. a written confirmation that the Department of Fisheries and Oceans and anyone authorized to act on the Department's behalf is authorized to access the site of the conservation project(s) for the term of the arrangement;
 - c. a description of the administration, management and general operation of the arrangement by the parties, including:
 - i. a procedure for proposing a conservation project and an approval process,
 - ii. a habitat credit certification process,
 - iii. a process for habitat credit evaluation and any re-evaluation that may be required by the Minister,
 - iv. habitat credit accounting procedures respecting the habitat credit ledger,
 - v. progress reports on the conservation project(s), and
 - vi. any other relevant matters respecting the administration of the arrangement;
 - d. reports on the performance of the arrangement;
 - e. the form and manner in which the arrangement may be amended;
 - f. the date on which the arrangement comes into force; and
 - g. the signatures of the parties.
- The arrangement does not commit the Minister to authorize or permit any future work, undertaking or activity under paragraph 34.4(2)(b) and 35(2)(b) of the Fisheries Act, or subsection 73(1) or section 74 of the Species at Risk Act. Nor does it constitute a commitment that any habitat credits that may be issued to the proponent will be acceptable in the context of any given future applications for authorization under the Fisheries Act or the Species at Risk Act. All future works, undertaking or activities for which authorizations or permits are required will be reviewed on their own merits and a decision on whether to authorize or issue a permit, and under what conditions, will be made independent of the existence of an arrangement. No communications between the Department and the proponent of a fish habitat bank can constitute a representation or commitment of any kind regarding authorization of any future works, undertaking or activities by the Department.
 - As outlined under Section 42.03 of the Fisheries Act, a proponent may only use their certified habitat credits in respect of a fish habitat bank within a service area to offset the adverse effects on fish or fish habitat from the carrying on of a work, undertaking or activity authorized or permitted to be carried on in that service area. Habitat credits are not transferrable to a third party (i.e., by sale, trade or barter) to be used to fulfill the third party's offsetting plan requirements.

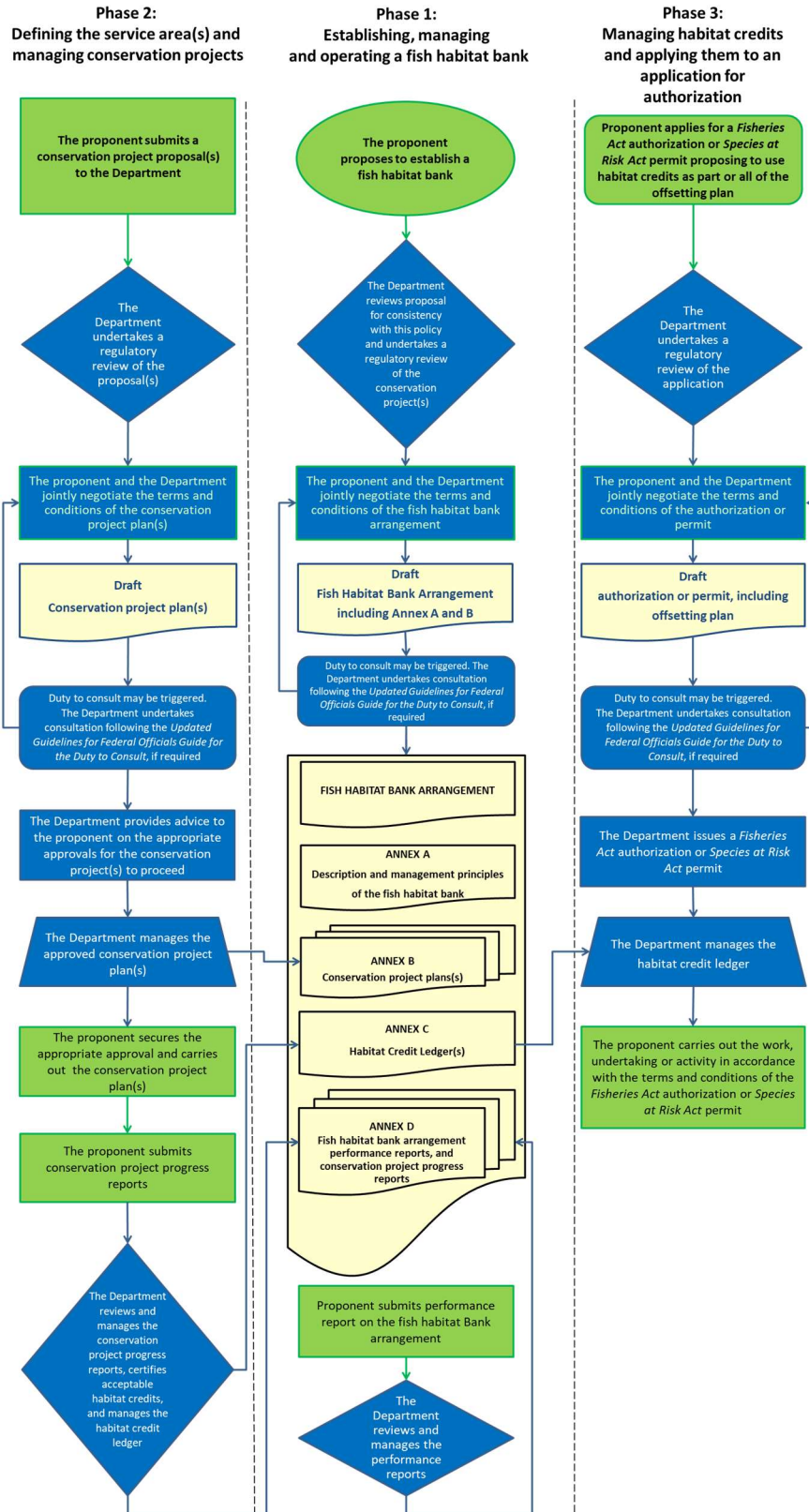


Figure 1: General overview of the fish habitat bank administrative process.

- The implementation and administration of the arrangement and the associated conservation projects must be performance-based, with clear measurable fish habitat indicators and performance targets. Fish habitat indicators shall demonstrate that the conservation project provides fish habitat benefits, including benefits to aquatic species at risk, where required.
- Fish habitat banks, the associated conservation projects and service areas, and resultant habitat credits, being undertaken in areas that overlap with the ranges of aquatic species at risk as listed under the *Species at Risk Act*, must consider the requirements of those aquatic species at risk. That includes, but is not limited to, respecting the relevant prohibitions, and following the guidance provided in relevant recovery strategies, action plans or management plans for those specific aquatic species at risk, when implementing and operating the fish habitat bank.
- The approval and management of fish habitat bank arrangements must respect the Departmental ‘Directive For Developing and Managing Memoranda Of Understanding’ (2018)¹³.

Proposal for Fish Habitat Bank Arrangement

Proponents interested in establishing a fish habitat bank are encouraged to engage with the Department early in the planning process to confirm their desire to enter into an arrangement for a fish habitat bank. It is their responsibility under the *Fisheries Act* to apply to the Department to establish a habitat banking arrangement before the commencement of work on a conservation project in accordance with this policy and the specific arrangement established. See Appendix 1 for more details on the information that proponents must submit as part of their proposal for a fish habitat bank to support this initial analysis.

It is recommend that proponents also engage with Indigenous groups if the proposed fish habitat bank may adversely affect the existing Aboriginal and treaty rights of Indigenous peoples of Canada as recognized and affirmed by section 35 of the *Constitution Act*, 1982. The engagement should share information and seek feedback for the operation of the fish habitat bank, the associated proposed and future conservation project(s), the service area(s), and the proposed and future development projects that may occur in the service area(s) that may affect the traditional territory of Indigenous peoples of Canada or on Indigenous owned lands (i.e., located on or adjacent to). The details of all engagement with Indigenous peoples should be documented and shared with the Department, as part of the fish habitat bank proposal.

The Department will review the proposal to determine if it provides sufficient details to begin discussions with the proponent regarding the establishment of a fish habitat banking arrangement.

¹³ Fisheries and Oceans Canada and the Canadian Coast Guard. 2018. Directive for Developing and Managing Memoranda of Understanding. Ottawa. (https://intra.ent.dfo-mpo.ca/folios/00938/docs/directive_dev_man_mou-eng.docx) (Internal guidance document)

Establishment of Arrangement for a Fish Habitat Bank

In addition to the legal requirements (i.e., subsection 42.02(3) of the *Fisheries Act*), the fish habitat bank arrangement is the administrative tool that defines the accountability, and clearly articulates the roles and responsibilities of the Department and the proponent in the context of a fish habitat bank. It identifies how the habitat bank will be established, managed, and operated. It describes the location of the fish habitat bank service areas; the conservation project sites; the numbers and types of habitat credits to be established and how they will be evaluated, certified and released¹⁴ to the habitat credit ledger; and, how the bank and its conservation projects will be managed and conserved for the long-term. It also describes long-term access to the site, and identifies requirements such as site assessments, contingency plans and monitoring programs. It is flexible in nature to accommodate undertaking one or multiple conservation projects, including the consideration of future conservation projects during the life of the fish habitat bank. Details of each conservation project are appended to the arrangement in an annex as they are proposed and approved. An annotated fish habitat bank arrangement template is available in Appendix 2.

The Department has a legal duty to consult with potentially affected Indigenous groups whose rights may be affected by the Department's decision to establish a fish habitat bank.

Roles and Responsibilities Under the Fish Habitat Bank Arrangement

The roles and responsibilities of the participants will be defined in the arrangement as follows:

Departmental staff are responsible for:

- jointly managing the performance of the arrangement;
- reviewing, providing advice and processing conservation project proposals;
- consulting with Indigenous peoples on the establishment, operation and management of the fish habitat bank, and where appropriate, accommodating their concerns, when there is a potential to adversely affect Aboriginal and treaty rights;
- considering and managing any Indigenous knowledge should it be shared with the Minister Department in relation to fish habitat banks, ensuring the application of Section 61.2 of the *Fisheries Act* to Indigenous knowledge provided in confidence and following Fish and Fish Habitat Protection Program guidance related to the Indigenous knowledge provisions of the *Fisheries Act*;
- reviewing conservation project progress reports, validating habitat credits, the types of habitat credits (e.g., habitat credits for a particular aquatic species at risk), and balances in the habitat credit ledger, and accurate and timely processing of habitat credit ledger transactions;
- verifying the results of conservation project monitoring and performance reports, as needed;

¹⁴ Habitat credit certification and release: means that monitoring of the fish habitat indicators has achieved the performance target(s) and has been evaluated and verified by Departmental staff confirming that the habitat credit(s) are providing the intended fish and fish habitat benefits. The habitat credit(s) are then considered certified and can be logged on the habitat credit ledger, and the certified habitat credit(s) are available to be used as an offset for future adverse effects on fish and fish habitat if appropriate.

- including conservation project sites on their Regional Strategic Monitoring Plan and, when appropriate, carrying out direct monitoring (i.e., a site visit to gather and analyze samples or information in order to directly verify compliance and/or effectiveness) and/or indirect monitoring (i.e., an assessment of information provided in performance reports to verify compliance and effectiveness) to verify that the implementation of the conservation project is following the established process and producing the desired results;
- managing the arrangement following departmental policies, and tracking arrangement activity in the Program Activity Tracking for Habitat (PATH) following data entry protocol; and
- reviewing and processing progress reports of the arrangement.

The proponent is responsible for:

- jointly managing the performance of the arrangement;
- designing, constructing, monitoring, maintaining, and protecting¹⁵ conservation project sites;
- engaging with Indigenous peoples that may be adversely affected by the fish habitat bank, the associated conservation project(s), and the related develop projects, to ensure that they are aware and have the opportunity to provide input, and participate, if appropriate, in the design, construction, monitoring, maintenance and protection of the conservation projects, and related develop projects;
- meeting all other federal, territorial, provincial and municipal requirements that apply to their conservation projects;
- reporting on performance of their conservation projects;
- accurately maintaining a copy of the habitat credit ledger; and
- preparing and submitting annual progress reports for the arrangement.

Monitoring and Reporting for Fish Habitat Bank Arrangements

Monitoring and reporting on the performance of fish habitat bank arrangements are important steps for demonstrating that progress has been achieved. Monitoring must be designed and implemented to describe the activities undertaken during the monitoring period, the factors affecting success, and to confirm that the partnership is achieving its purpose, the fish habitat bank is functioning as intended, and to identify any performance issues that may arise so that they can be addressed. Fish habitat indicators set out in the conservation project plan will inform the monitoring and reporting requirements.

The arrangement will also be subject to an annual review term, where the fish habitat bank arrangement progress report and other relevant information will be used to assess the effectiveness of activities under the arrangement. The Department may establish a review team consisting of the proponent, Departmental staff and appropriately qualified third-party representatives (e.g., Indigenous groups, conservation non-government organization or environmental consultant) to

¹⁵ Protecting a conservation project site means safeguarding the site from future development, by the bank proponent or by another party, through maintaining control or tenure (e.g., ownership, lease, permit, etc.) over the conservation project site until the balance of the certified habitat credits associated with that specific conservation project reaches zero, or for the duration of the habitat bank arrangement, whichever comes first.

carry out the review. This review team will report to the Department within six months of being established. The findings of the review may be used in the arrangement renewal decision.

The Department encourages proponents of fish habitat banks to involve Indigenous peoples in the design and implementation of monitoring and reporting.

Renewal and Termination of the Arrangement for a Fish Habitat Bank

The arrangement for a fish habitat bank will expire after an agreed upon term, as identified in the arrangement. The proponent of the fish habitat bank can request a renewal of the arrangement for an additional defined term by providing one year's written notice to the Department. The arrangement can be terminated at any time by providing six months' written notice by either participant.

It is important to note that the failure, on behalf of the proponent, to request a renewal of the arrangement, or to request the termination of the arrangement, may result in the forfeit of the available (i.e., unused) certified habitat credits on the credit ledger.

The Department has a legal duty to consult with potentially affected Indigenous groups whose rights may be affected by the Department's decision to renew or terminate a fish habitat bank arrangement.

Phase 2: Defining the Service Area(s) and Managing Conservation Projects

A functioning habitat bank arrangement must have at least one conservation project¹⁶ for the generation of habitat credits within a service area¹⁷ that defines where the habitat credits generated can be used, and in the case of species at risk, the species on which the credits can be used. Defining these conservation projects and the service area(s)¹⁸ are necessary steps in establishing a fish habitat bank.

It is good practice for proponents to engage often and early with Indigenous peoples about a fish habitat bank and conservation project(s) when the conservation projects are located on, or the service area(s) overlap or are adjacent to, the traditional territory of Indigenous peoples or on Indigenous owned land.

Conservation Projects

Conservation projects are works, undertakings or activities that are carried on by a proponent for the purpose of creating (e.g., building a wetland adjacent or connected to a watercourse or

¹⁶ Section 42.01 of the *Fisheries Act* defines 'conservation project' as a work, undertaking or activity that is carried on by a proponent for the purpose of creating, restoring or enhancing fish habitat within a service area in order to acquire habitat credits

¹⁷ ¹⁷ Section 42.01 of the *Fisheries Act* defines 'service area' as the geographical area that encompasses a fish habitat bank and one or more conservation projects and within which area a proponent carries on a work, undertaking or activity.

¹⁸ The conservation project(s) and service area(s) are defined in accordance with the *Fisheries Act*. Refer to the section in this Policy "*Fisheries Act* Authorities for Fish Habitat Banks " for further information.

waterbody), restoring (e.g., remediating a contaminated aquatic ecosystem) or enhancing (e.g., improving a spawning shoal) fish habitat within a service area in order to acquire habitat credits. Conservation projects that are eligible for habitat banking are identified in the arrangement for a fish habitat bank and include fish habitat creation, restoration and enhancement measures that modify fish habitat which results in defined fish and fish habitat benefits (i.e., enhance specific fish habitat functions). The goal of the conservation project is to contribute either directly to the conservation and protection of fish and fish habitat or to the survival and recovery of an aquatic species at risk.

The conservation project site should have the ecological suitability for achieving the fish and fish habitat benefits (i.e., possess the physical, chemical and biological attributes to support establishment of the desired fish habitat features and functions) proposed in the conservation project plan (conservation project plan is discussed later in the document). The size and location of the site relative to other ecological features, hydrologic sources, and compatibility with adjacent fish habitat, and fisheries management objectives are important factors for consideration. Other significant factors for consideration include, but are not limited to, fisheries management plans and management objectives (including recovery strategies, management and action plans under the *Species at Risk Act*); development trends (i.e., anticipated adjacent land-use changes); fish habitat status and trends; fish habitat connectivity; water quality; the presence of aquatic invasive species (including non-indigenous species) in the project site or its vicinity; climate change; and, the relative potential for chemical contamination of the fish habitat and/or other fisheries resources.

To the extent possible, conservation projects should be planned and designed to be self-sustaining over time. The techniques for constructing fish habitat must be carefully selected, based on the best available science and guidance. The use of proven techniques in the restoration of degraded fish habitat increases the likelihood of success.

Proposed creation, restoration and enhancement techniques should be well-understood and reliable. When uncertainties surrounding the technical feasibility of proposed techniques exist, contingency plans and additional monitoring requirements should be put in place by the proponent to increase the likelihood of achieving the stated, measurable and desired fish and fish habitat benefits. These measures may be phased-out or reduced once the performance targets for the fish habitat indicators are achieved and have demonstrated their persistence.

Where conservation projects are proposed on Indigenous traditional territory the Indigenous land owner or Indigenous groups should be engaged on the design and operation of the conservation project.

Aquatic Invasive Species

Conservation projects must be designed and implemented in a manner that prevents the introduction and spread of aquatic invasive species (including non-indigenous species) into Canadian waters, and supports the management species subject to the [*Aquatic Invasive Species Regulations*](#). Likewise, conservation projects must also adhere to provincial/territorial legislation relevant to aquatic invasive species management.

The Service Area

The service area is the geographical area that encompasses a fish habitat bank and one or more conservation projects and within which area a proponent carries on works, undertakings or activities. The service area of a fish habitat bank is the area (e.g., watershed, municipality) wherein a fish habitat bank can reasonably be expected to provide appropriate measures to offset for the adverse effects on fish and fish habitat and/or other aquatic resources that result from their future development projects. This area must be defined in the habitat bank arrangement.

The geographic extent of a service area is defined for each conservation project (or group of conservation projects) to ensure that the habitat credits generated by the project(s) will only be used to offset projects where there is sufficient proximity and equivalence between the habitat being impacted by the development project and the habitat that was created to generate the habitat credit. The determination of the service area should be guided by the ecosystem approach¹⁹ and be based on consideration of hydrological and ecological criteria (e.g., watershed boundary, drainage area, eco-zone, bay, lake, etc.), relevant fisheries management objectives, other resource management plans, or regulations, including the survival and recovery of aquatic species at risk, the presence of aquatic invasive species (including non-indigenous species) in the service area or its vicinity, and, if applicable, jurisdictional boundaries. The consideration of any Indigenous knowledge of the Indigenous peoples of Canada that is provided to the Minister may also be helpful in defining the boundaries of a service area.

Defining a larger service area than that supported by the ecological criteria may be appropriate for fish habitat banks whose primary purpose is to offset for linear projects (e.g., water crossings for pipeline and highway projects). These projects typically involve numerous small-scale effects on fish and fish habitat in several different watersheds or ecological units.

Fish habitat banks with more than one type of habitat credit (e.g., habitat credits for fish and fish habitat, and credits for a particular aquatic species at risk) may have different service areas designated for different credit types. This area must be defined in the arrangement for a fish habitat bank.

Figure 2 is an example of a service area for a fish habitat bank. In this example, the proponent of the fish habitat bank is a municipality and has defined the boundaries of the service area based on its civic boundaries which are all within a single watershed and therefore subject to the fisheries management objectives, watershed management objectives (e.g., fish habitat management plan), and other related ecosystem management objectives. All of their conservation projects are located within the service area, and the habitat credits generated by the conservation projects provided are intended to be used to offset the residual adverse effects on fish and fish habitat caused by their future proposed development projects that may take place within the service area.

Conservation Project Plan

The proposed conservation project(s) and the associated service area(s) should be described in the conservation project plan and appended to the habitat bank arrangement. The development of a conservation project plan is similar to the development of an offsetting plan, as described in the

¹⁹ See the [Principles of Ecosystem-Based Fisheries Management](#) for the Department's perspective on the ecosystem approach.

Offsetting Policy, and must meet the guiding principles for measures to offset set out in that policy in addition to the guiding principles outlined in this Policy (see Appendix 1, Annotated Arrangement Template for the Fish Habitat Bank Annexes A and B, which includes a list of requirements of a conservation project plan and the associated conditions).

The plan begins with a goal statement that describes the desired fish and fish habitat benefits and/or the benefits to aquatic species at risk and their habitat, that will be provided; as well as a description of the measures that will be implemented to provide those benefits. It also includes the fish habitat structures, functions and attributes that are necessary to achieve the desired fish habitat benefits, and the fish habitat indicators and performance targets that will be used to measure success of the conservation project. It should be noted that the plan supports measures included in a recovery strategy, action plan, or management plan for a species at risk, if applicable. It is important to articulate clearly the fish habitat indicators and performance targets that are linked to the goal of the conservation projects, and that provide benchmarks for measuring progress. A schedule that sets out the timeline, including the start and end dates for implementing the plan, is also necessary.

The desired fish and fish habitat benefits are the expected changes from the baseline, pre-project condition of the fish habitat, to the post-project condition, as result of the conservation project. These fish and fish habitat benefits can be used to identify the types of habitat credits and how many credits are expected to be established. It is important to carefully describe and quantify the fish and fish habitat benefits in order for them to be used as measures to counterbalance the proposed losses of a development project in the future.

The plan should also clearly describe what type of habitat credits will be generated in terms of the type of fish habitat and the fish community the conservation projects will support, including aquatic species at risk. For example, fish habitat that is managed to enable an assemblage of fish species to directly carry out their life processes should be tracked differently from aquatic habitat that is managed to contribute to specific survival and recovery needs of an adversely affected aquatic species at risk or an assemblage of aquatic species at risk in a particular service area.

Although a conservation project of a fish habitat bank is intended to provide benefits to fish and fish habitat, the conservation project may include works, undertakings or activities that could contravene the fish and fish habitat protection provisions of the *Fisheries Act*. For example, a conservation project may propose the construction of a wetland that includes a water-control structure with a footprint that results in a contravention of the fish and fish habitat provisions of the *Fisheries Act*. Thus, the proponent may require an authorization under the *Fisheries Act*, and should prepare and submit an application for authorization following the ‘[Authorizations Concerning Fish and Fish Habitat Protection Regulations](#)’ (see the [Applicant’s Guide Supporting the ‘Authorizations Concerning Fish and Fish Habitat Protection Regulations’](#)²⁰). Similarly, conservation projects that could contravene the prohibitions of the *Species at Risk Act* will require a *Species at Risk Act* permit or a *Fisheries Act* authorization that acts as a *Species at Risk Act* permit.

It is important to note that proponents must also comply with all other federal, provincial, territorial and municipal requirements that apply to their conservation project. They are encourage to engage

²⁰ Fisheries and Oceans Canada. 2019. Applicant’s Guide Supporting the “Authorizations Concerning Fish and Fish Habitat Protection Regulations”. Ottawa. ([Applicant’s Guide Supporting the “Authorizations Concerning Fish and Fish Habitat Protection Regulations”](#)).

with Indigenous peoples about the conservation project plan. Indigenous peoples can help in identifying the fish habitat structures, functions and attributes that are necessary to achieving the desired fish habitat benefits, and the fish habitat indicators and performance targets that will be used to measure success of the conservation project.

Habitat Credit Value

The Department and the proponent should mutually agree upon the value of a habitat credit and the unit of measure. A variety of metrics or units of measure may be used, but generally, this is based on the amount of physical fish habitat created, restored, or enhanced, the intended fish habitat functions and attributes (i.e., the life cycle processes the habitat supports for the fish community), and in the case of species at risk, the particular species that will benefit. The unit of measure and the value of the credits are to be described in the conservation project plan, and posted to the fish habitat ledger (e.g., see Annex C of Appendix 2). For example, credits could be based upon the quantity of fish habitat (e.g., m² or ha), and a description of how it functions for the fish community across life stages, species and habitat types. More complex approaches could employ a variety of equivalency analyses that require a common currency (e.g., equivalent adults²¹) that may be used to quantify the benefits to fish and fish habitat across fish life stages, species and habitat types.

It should be noted that habitat credits for a particular aquatic species at risk or an aggregate of aquatic species at risk in the same service area may not be acknowledged as equivalent for use for another species at risk that are not included in the conservation project plan of the arrangement. However, the proponent may request to use the aquatic species at risk habitat credits to offset adverse effects on not at-risk fish and fish habitat if it can be demonstrated that the habitat credits address the residual adverse effects resulting from their proposed development project in question.

Establishing Fish Habitat Indicators and Performance Targets

An essential part of all conservation projects are the ecological goals and objectives that will be achieved by the project, and how success will be measured and reported. Fish habitat indicators are physical, chemical or biological attributes of fish habitat that can be measured and can be used to detect or assess the condition of fish habitat, and to monitor changes in that condition over time. As such, they can be used to monitor the effectiveness of conservation projects in achieving their intended benefits to fish and fish habitat relative to the performance targets. Although it is not possible to measure all aspects of fish habitat, it may be appropriate to choose suitable representative fish habitat indicators that can be used to assess the effectiveness of a conservation project in achieving its intended benefits to fish and fish habitat.

²¹ Fisheries and Oceans Canada, Canadian Science Advisory Secretariat. 2015. Science Guidance for Fisheries Protection Policy: Advice on Equivalent Adult Calculation. Ottawa. Science Advisory Report 2015/011. http://publications.gc.ca/collections/collection_2015/mpo-dfo/Fs70-6-2015-011-eng.pdf

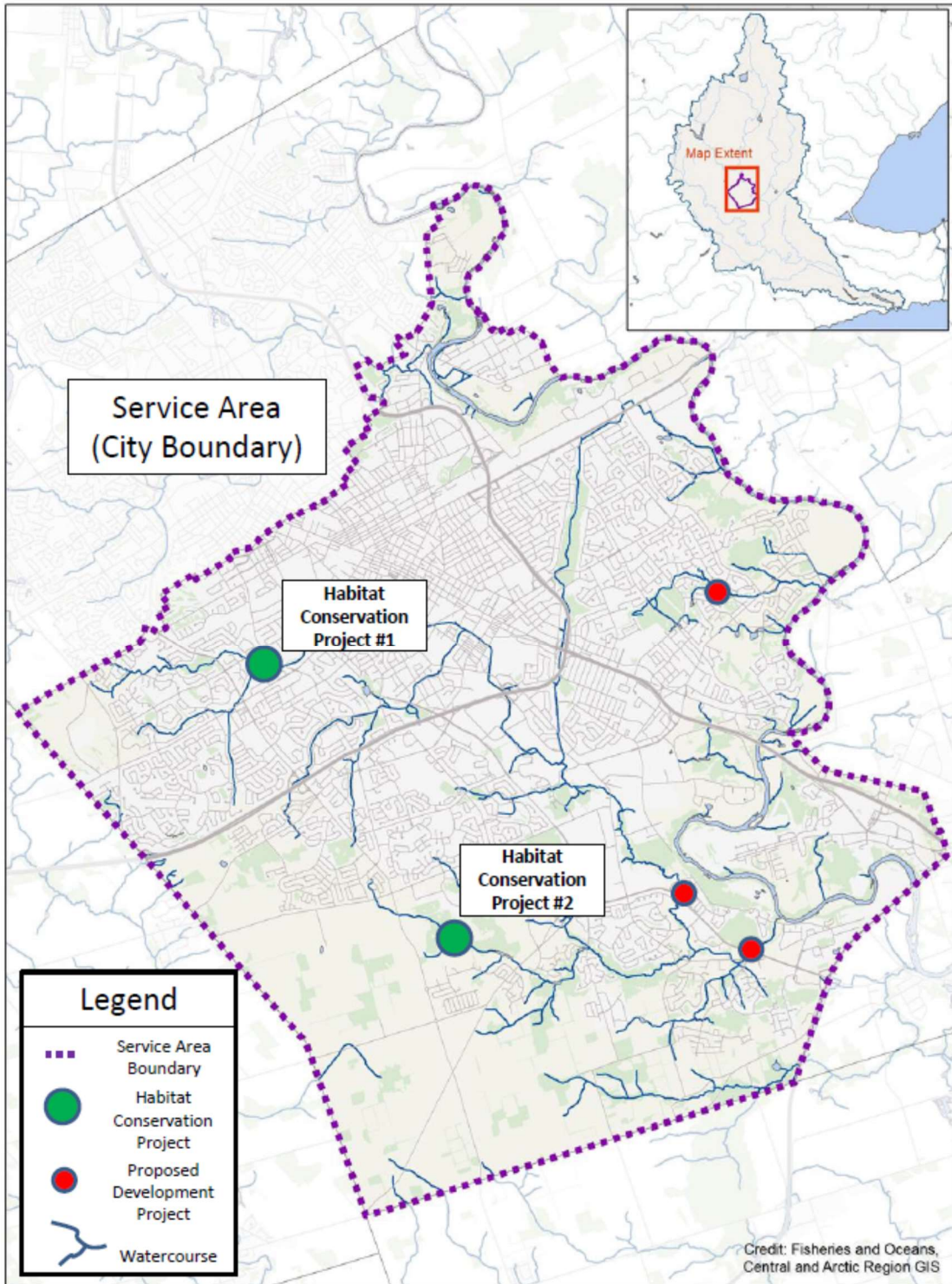


Figure 2: An example of a service area map.

The performance target is a specific value or range of the fish habitat indicator that defines the success of the project relative to its intended fish and fish habitat benefits. An effective performance target should be reasonably achievable, and take into account the range of natural variability of the fish habitat indicator expressed in that environment. Setting a performance target involves knowing the environment and what can be realistically achieved within that environment. Recovery strategies, action plans and/or management plans for specific aquatic species at risk are good source of information for the ecological requirements for these species and may help in selecting appropriate fish habitat indicators and performance targets.

The combination of fish habitat indicators and performance targets can be used to determine when habitat credits will be earned and can be used to establish a phased approach to habitat credit evaluation, certification, and release to the habitat credit ledger.

Conservation Project Monitoring and Reporting

Proponents are responsible for implementing conservation projects and monitoring their progress and effectiveness, as well as for reporting on implementation and the results of monitoring to the Department. Monitoring must be designed to confirm that the conservation project has been effective in providing the intended fish and fish habitat benefits and may identify the need for contingency measures should deficiencies be found.

The conservation project monitoring and reporting requirements must be described in the conservation project plan which will be appended to the arrangement for a fish habitat bank. The foundations of the monitoring plan are the fish habitat indicators and associated performance targets. Common monitoring and reporting requirements may include:

- schedule and timelines for monitoring and reporting;
- dated photographs of key milestones during the construction and operations of the conservation project;
- monitoring and inspection records;
- details of any changes to mitigation, corrective actions or contingency measures that were applied in the event that mitigation or fish habitat indicator failed to function as described (i.e., in comparison to the performance target or as outlined in the adaptive management plan); and
- the sampling methodology and criteria for the fish habitat indicators that will be used to evaluate the success of the conservation project.

In addition, the monitoring results can be used to inform an adaptive management approach that relies on the implementation of various maintenance and/or contingency measures if it is determined that the performance targets for fish habitat indicators are not being achieved.

Maintenance of the conservation project is the responsibility of the proponent. Further, should a conservation project not meet its performance target for a fish habitat indicator because of poor design or implementation, the proponent is also responsible for the repair of, or adjustments to, the conservation project, as set out in the conservation project plan.

Additional information on standardized approaches to monitoring to determine the effectiveness of a conservation project can be found in Smokorowski et al. (2015)²².

The submission of monitoring reports to assess the development and condition of the conservation project is required as per the schedule outline in the conservation project plan. The content and level of detail for those monitoring reports must be commensurate with the scale and scope of the intended fish habitat benefits and should be specified in the monitoring plan for each conservation project.

The Department may monitor the conservation project site to verify the information provided in the report and assess the implementation, compliance and effectiveness of the fish habitat benefits. The Department's monitoring may include a site visit or inspection to gather samples or information or an audit of the information provided in the monitoring report to verify compliance or effectiveness of the conservation project. For more details about the Department's activities please refer to Fish and Fish Habitat Protection Program's National Monitoring Framework²³.

The Department recommends that proponents involve Indigenous peoples in their monitoring for effectiveness of a conservation project. Indigenous peoples may want to be directly involve with the monitoring of the fish and fish habitat, especially if the conservation project is located on their traditional territory or Indigenous owned land.

Habitat Credit Evaluation, Certification, and Release

A fish habitat bank's conservation projects must be constructed and demonstrate that they have achieved or surpassed the performance target for the fish habitat indicators before habitat credits can be earned. This could include a phased approach that would allow for habitat credits to be allocated as various fish habitat indicator performance targets are achieved over time.

The habitat credit evaluation and certification process should be based on the evaluation of the monitoring data and detailed in the conservation project plan. The plan should also include a process for habitat credit re-evaluation that may be required to assess any required maintenance or to manage for the uncertainty associated with work in the natural environments, when warranted.

Habitat credits can be released when Department's evaluation and certification confirms the reported habitat credit(s) are providing the intended fish and fish habitat benefits. The evaluation and certification confirms that the habitat credit(s) are providing the intended fish and fish habitat benefits, the habitat credit(s) can be logged on the habitat credit ledger, and the habitat credit(s) are available to be used as an offset for future adverse effects on fish and fish habitat if appropriate.

²² Smokorowski, K.E., Bradford, M.J., Clarke, K.D., Clément, M., Gregory, R.S., Randall, R.G. 2015. Assessing the effectiveness of habitat offset activities in Canada: Monitoring design and metrics. Can. Tech. Rep. Fish. Aquat. Sci. 3132: vi + 48 p.

²³ Fisheries and Oceans Canada. Fisheries Protection Program. Fisheries Protection Program National Monitoring Framework. Ottawa, 2015. http://intra.dfo-mpo.gc.ca/hq/fishmgmt/directorates/eco/fisheries-protection-prog/doc/FPP%20National%20Monitoring%20Framework%20-%20v1_EN.pdf

Conservation Project Site Ownership or Land Tenure

Fish habitat bank proponents are responsible for the design, construction, monitoring, maintenance, and long-term protection and stewardship of the conservation project sites for the duration of the habitat bank arrangement. The lands, water sources or waterbodies needed to implement the conservation project plan must either be owned by the proponent, or the proponent must have the authorization to access and utilize those resources to implement the plan (e.g., provincial crown land use permit, First Nation land lease, or other permits and leases).

Land ownership or land tenure (e.g., lease or permit) is important to safeguard the protection of conservation project sites so the fish habitat benefits that they represent are available when they are needed to offset adverse effects to fish and fish habitat. Land ownership or land tenure also ensures that Departmental staff or other appropriate representatives have access to the conservation project site to carry out compliance and effectiveness monitoring of the site. Land tenure agreements can be effective at restricting harmful activities that might otherwise jeopardize achieving the objectives of the offset or conservation project site.

Phase 3: Managing Habitat Credits and Applying them to an Application for Authorization

Habitat credits may be considered for withdrawal from a fish habitat bank habitat credit ledger when a proponent submits an application for a *Fisheries Act* and/or *Species at Risk Act* authorization requesting use of the certified habitat credits as all or part of their offsetting plan to the Department for regulatory review^{24 25}. However, suitability of available habitat credits for use in an offsetting plan will be determined by the Department on a case by case basis.

Prior to applying for a *Fisheries Act* or *Species At Risk Act* authorization, proponents should also engage Indigenous groups that will potentially be adversely affected by the impacts of the development project in the service area for which the habitat credits will be used towards the offsetting plan.

The arrangement must include details of the habitat credit accounting procedures respecting the habitat credit ledger. The habitat credit ledger is an annex to the fish habitat bank arrangement and is the official accounting record for all habitat banking transactions for the fish habitat bank (see Annex C: Habitat Credit Ledger in Appendix 2: Annotated Arrangement Template for the Fish Habitat Bank). The habitat credit ledger tracks the date habitat credits were certified and added to the ledger, the tracking number and documentation used to certify the habitat credits, the type and amount of habitat credits that were certified, and documents habitat credit use and balance. The management of the habitat credit ledger is the responsibility of both parties to the arrangement.

Upon approval, and before issuing the authorization or permit, the Department logs the habitat credit transaction in the habitat credit ledger.

²⁴ The application for authorization is for a paragraph 34.4(2)(b) or 35(2)(b) of the *Fisheries Act*, and including an authorization that acts as a *Species at Risk Act* permit pursuant to section 74 of the *Species at Risk Act*.

²⁵ Fisheries and Oceans Canada. 2020. Permitting under the *Species at Risk Act*. Ottawa. (<https://www.dfo-mpo.gc.ca/species-especes/sara-lep/permits-permis/index-eng.html>).

The availability of habitat credits within a fish habitat bank does not commit the Department to authorizing or permitting of any future work, undertaking or activity requiring an authorization under paragraphs 34.4(2)(b) and 35(2)(b) of the *Fisheries Act*, including a *Fisheries Act* authorization that acts as a *Species at Risk Act* permit, or a permit under section 73 of the *Species at Risk Act*. It is important to recognize that there are limits to effectiveness of measures to offset, and some adverse effects to fish and fish habitat are so great that no offset (or habitat credit) could appropriately compensate for the loss of fish or fish habitat.

The Department has a legal obligation to consult with the Indigenous peoples of Canada when taking decisions under the *Fisheries Act* and the *Species at Risk Act* where there is a potential for the decision to adversely impact Indigenous rights.

Part 3: Additional Information

The following Departmental guidance documents are available from the Department's [Projects Near Water website](#):

- [Applicants Guide Supporting the Authorizations Concerning Fish and Fish Habitat Protection Regulations](#)
- [Fish and Fish Habitat Protection Policy Statement](#)
- [Pathways of Effects](#)

These documents provide context for this policy and specific guidance on some of the processes, such as applying for a *Fisheries Act* authorization, to which this document refers.

For more information the Projects Near Water website also provides information on how to contact your local [Departmental office](#).

Information on modernization of this policy and opportunities for engagement in the process can be found at [Fisheries and Oceans Canada's Fish and Fish Habitat Protection Program's Engagement Platform](#).

Appendix 1: Fish Habitat Bank Arrangement Proposal Information Requirements

Contact Information:

- Proponent's full legal name and primary mailing address.
- If the proponent is a government agency, corporation or company, provide the full legal registered name of the organization.
- If applicable, also provide the contact information of the duly authorized representative of the proponent.

Habitat Bank Proposal:

- 1) Proposal overview
 - An explanation of why the fish habitat bank proposal is being pursued.
 - A general description of the size and types of conservation project(s) being proposed (habitat creation, enhancement, restoration, etc.), the fish species affected and the fish habitat benefits to be achieved by the conservation project(s), and the types of habitat credits being proposed (i.e. fish and fish habitat or aquatic species at risk habitat credits).
 - If credits for species at risk are being proposed, the particular species or aggregate of species must be indicated.
- 2) Habitat Bank Location
 - A general description of the location of the habitat bank (i.e. watershed, drainage, lot and concessions, township, latitude and longitude) and how to access it. The description should include a map that illustrates the following:
 - a) delineation of the fish habitat bank service areas;
 - b) general location of conservation project sites within the service area (if known);
 - c) description on how to access the fish habitat bank; and
 - d) confirmation that Department staff have access to the site for the length of time of the arrangement in a letter signed by the landowner; and
 - e) A proposed site development plan and schedule for bringing conservation projects online.
- 3) Habitat Bank Administration, Management and Operation
 - Describe the proposed approach for the administration, management and general operation of the fish habitat bank including:
 - a) conservation project proposal(s);
 - b) habitat credit valuation approach;
 - c) habitat credit evaluation and re-evaluation approach (if applicable);
 - d) habitat credit accounting procedures respecting the habitat credit ledger); and
 - e) description and the results of any engagement or consultation activities undertaken in relation to the proposed fish habitat bank and conservation project(s) including with Indigenous communities or groups, and interested stakeholders (e.g., the public), and
 - f) the date on which the arrangement for the fish habitat bank comes into force.

Information Required for each Conservation Project Proposal within the Fish Habitat Bank:

- A conservation project proposal should include a description of the following:
 - a) Proposed conservation project;
 - b) Fish and fish habitat (including aquatic species at risk) found at the location of the proposed conservation project site (i.e., baseline of the freshwater or marine environment);
 - c) Aquatic invasive species (including non-indigenous species) found at the location of the proposed conservation project site and its vicinity;
 - d) Predicted effects on fish and fish habitat of the proposed conservation project;
 - e) Measures and standards to avoid or mitigate adverse effects on fish and fish habitat for the proposed conservation project;
 - f) Measures and mitigation methods (e.g., clean, drain, dry, and decontaminate) to avoid the introduction or spread of aquatic invasive species (including non-indigenous species) in the proposed conservation project;
 - g) Fish habitat indicators and performance targets for the proposed conservation project;
 - h) Monitoring, maintenance and contingency measures for the proposed conservation project;
 - i) Habitat credits that will be established by the proposed conservation project;
 - j) Habitat credit release schedule for the proposed conservation project;
 - k) Land ownership/tenure for the proposed conservation project site;
 - l) Recovery implementation actions for an aquatic species at risk as identified in the *Species at Risk Act* recovery strategy, action plan or management plan for that species;
 - m) Species-specific habitat credits that will be established from the actions described in j) above; and
 - n) A description and the results of any engagement or consultation activities undertaken in relation to the proposed conservation project, including with Indigenous communities or groups and the public.

Appendix 2: Annotated Arrangement Template for the Fish Habitat Bank

Fish Habitat Bank Arrangement:
[INSERT NAME OF THE FISH HABITAT BANK (INCLUDING THE BANK LOCATION)]

Between

[INSERT THE FISH HABITAT BANK PROPONENT NAME]
[The full and legal names must be listed correctly]

AND

HER MAJESTY THE QUEEN IN RIGHT OF CANADA, as represented by the Minister of Fisheries, Oceans and the Canadian Coast Guard on behalf of Fisheries and Oceans Canada

[INSERT COMES INTO FORCE DATE] (MONTH, DD, YYYY)

PATH Number: [INSERT PATH NUMBER]

1. INTRODUCTION

This document sets out the principles of the mutual understanding between **[INSERT HABITAT BANK PROPONENT NAME]** and Fisheries and Oceans Canada (hereafter referred to as “the Participants”) for the **[INSERT NAME OF FISH HABITAT BANK]**.

Whereas Fisheries and Oceans Canada (hereafter referred to as the Department) is responsible for the administration of the *Fisheries Act*. The purpose of the *Fisheries Act* is to provide a framework for the proper management and control of fisheries, and the conservation and protection of fish and fish habitat, including by preventing pollution;

Whereas the fish and fish habitat protection provisions as set out in sections 34 to 42.5 of the *Fisheries Act* provide a holistic approach to conserving and protecting fish and fish habitat, supported by policies and programs that provide for the long-term sustainability of freshwater and marine resources;

Whereas sections 42.01 to 42.04 of the *Fisheries Act* establish key definitions and rules for all parties of arrangements respecting fish habitat banks;

Whereas the Department is responsible for the administration of the *Species at Risk Act* with respect to aquatic species other than those individuals in or on federal lands administered by the Parks Canada Agency and, in that capacity, the Minister of Fisheries, Oceans and the Canadian Coast Guard has powers and duties with respect to protecting aquatic species listed under that *Act* and providing for their recovery;

Whereas the Department provides a suite of guidance documents in support of the implementation of the fish and fish habitat protection provisions of the *Fisheries Act*. The ‘Policy for Establishing Fish Habitat Banks in Canada to Support the Administration of the *Fisheries Act* and the *Species at Risk Act*’ provides guidance on planning, establishing and managing fish habitat banks that builds on the general policy guidance provided in the ‘Fish and Fish Habitat Protection Policy Statement’, and the ‘Policy for Applying Measures to Offset Adverse Effects on Fish and Fish Habitat Under the Fisheries Act’;

[INSERT OTHER RELEVANT ‘WHEREAS’ STATEMENTS FROM THE PROPONENT]

Therefore, the Participants agree to the following arrangement:

2. PURPOSE

To establish the principles for the creation and management of a fish habitat bank by:

- establishing a working relationship between the Participants based upon trust, accountability and information sharing;
- establishing a clear understandable arrangement for managing a fish habitat bank; and
- increasing certainty in the administration of the fish habitat bank.

3. OTHER GENERAL INFORMATION

The activities carried out under this arrangement must be consistent with:

- *Fisheries Act* and its regulations (e.g., *Aquatic Invasive Species Regulations*);
- *Species at Risk Act*;
- Fish and Fish Habitat Protection Policy Statement;
- Policy for Applying Measures to Offset Adverse Effects on Fish and Fish Habitat Under the *Fisheries Act*; and
- Interim Policy for Establishing Fish Habitat Banks to Support the Administration of the *Fisheries Act* and the *Species at Risk Act*.

4. SCOPE

The scope of this arrangement is limited to the establishment and administration of a fish habitat bank, named above, and described in Annex A, and including conservation projects described in Annex B.

5. REGULATORY REQUIREMENT

Section 42.03 of the *Fisheries Act* requires that a proponent may only use their certified habitat credits in respect of a fish habitat bank within a service area to offset the adverse effects on fish or fish habitat from the carrying on of a work, undertaking or activity authorized or permitted to be carried on in that service area.

6. DISCLAIMER

This arrangement does not commit the Department to the authorization of any future work, undertaking or activity requiring an authorization under paragraph 34.4(2)(b) and 35(2)(b) of the *Fisheries Act*, or permit any future activity requiring a permit under section 73(1) or 74 of the *Species at Risk Act*. All future works, undertakings or activities requiring authorizations or permits will be reviewed on their own merits and a decision on whether to authorize or permit will be made independent of the existence of an arrangement for a fish habitat bank. This arrangement, and any related communications between the Department and **[INSERT FISH HABITAT BANK PROPONENT NAME HERE]** do not constitute a representation or commitment of any kind to **[INSERT FISH HABITAT BANK PROPONENT NAME HERE]** regarding the authorization of any future works, undertakings or activities by the Department. This arrangement, and any related communications, moreover does not constitute a commitment that any habitat credits that may be issued to (Proponent) will be acceptable in the context of future applications for *Fisheries Act* authorizations or *Species at Risk Act* permits.

7. ROLES AND RESPONSIBILITIES

The roles and responsibilities of the **[INSERT FISH HABITAT BANK PROPONENT NAME HERE]** are:

- Jointly managing the performance of the arrangement;
- Designing, constructing, monitoring, maintaining, and protecting conservation project sites;

- Engaging with Indigenous peoples in the area of the proposed conservation project to ensure that they are aware and have the opportunity to provide input, and participate, if appropriate in the design, construction, monitoring, maintenance and protection of the conservation projects;
- Meeting all other federal, territorial, provincial and municipal requirements that apply to conservation projects;
- Reporting on performance of conservation projects;
- Accurately maintaining a copy of the habitat credit ledger; and
- Preparing and submitting progress reports for the arrangement.

The roles and responsibilities of the Department are:

- Jointly managing the performance of the arrangement;
- Reviewing, providing advice and processing conservation project proposals;
- Considering the potential for the conservation projects to adversely affect Aboriginal and treaty rights and consulting with Indigenous peoples, if required prior to approving those projects;
- Managing Indigenous knowledge shared with the Department of Fisheries and Oceans in relation to fish habitat banks, ensuring the application of Section 61.2 of the *Fisheries Act* to Indigenous knowledge provided in confidence and following Fish and Fish Habitat Protection Program guidance related to the Indigenous knowledge provisions of the *Fisheries Act*;
- Reviewing conservation project progress reports, validating habitat credit balances in the habitat credit ledger, and processing habitat credit ledger transactions;
- Verifying the reported results of conservation project monitoring and progress reports;
- Including conservation project sites on their Regional Strategic Monitoring Plan and when appropriate carry out direct monitoring (i.e., a site visit to gather and analyse samples or information in order to directly verify compliance and effectiveness) and/or indirect monitoring (i.e., an assessment of information provided in performance reports to verify compliance and effectiveness) to verify that the implementation of the Conservation Projects is following the established process and producing the desired results;
- Managing the arrangement following departmental policies, and track arrangement activity in the PATH following Data Entry Protocol; and
- Reviewing and processing progress reports of the arrangement.

The participants shall fulfill their responsibilities under this arrangement in accordance with the provisions of federal, provincial and territorial laws and regulations that govern their activities. Should a participant not be able to perform a function under this arrangement, the affected participant will immediately contact the other signatories of this arrangement so that early resolution can be reached.

8. MANAGEMENT PROVISIONS

This arrangement establishes the following management provisions for the administration of the arrangement:

- The accountability lies with the office of signatories of the arrangement, **[INSERT FISH HABITAT BANK PROPONENT ACCOUNTABLE OFFICE HERE]** and Regional Director, Ecosystems Management, of **[INSERT NAME OF DEPARTMENTAL REGION HERE]**.
- The day to day administration of the arrangement will be carried out by: **[INSERT FISH HABITAT BANK PROPONENT ACCOUNTABLE OFFICE HERE]** (e.g. Project Manager); and Regional Fish and Fish Habitat Protection Program Manager/Team Leader of **[INSERT NAME OF DEPARTMENTAL REGION HERE]** Departmental Region.

9. ADMINISTRATION OF THE FISH HABITAT BANK ARRANGEMENT

- Specific details related to the principles of the administration and operation of the fish habitat bank are included in ANNEX A;
- Details related to the conservation projects:
 - the conservation project proposals, principles of operation and maintenance, and approvals for the conservation projects are included in ANNEX B;
 - the habitat credit ledger is attached in ANNEX C; and
 - the conservation project performance reports are included in ANNEX D.

10. SHARING OF INFORMATION

While this arrangement is in effect and at all times thereafter, each of the Department's and **[NAME OF FISH HABITAT BANK PROPONENT HERE]** and any officers, employees or agents of each of them shall treat all information, data, documents, reports and materials acquired or to which access have been given in the course of, or incidental to, the performance of this arrangement as confidential, subject to the federal *Access to Information Act* and the *Privacy Act*. The Participants shall not disclose or permit to be disclosed such information, data, documents, reports and materials, unless:

- a. the participants agree to the disclosure;
- b. the disclosure is required by law;
- c. the information was obtained from the public; or
- d. the information is available to the public.

11. DIFFERENCES IN INTERPRETATION AND APPLICATION

The Participants will endeavor to resolve issues regarding the implementation of this arrangement in a timely manner using mechanisms available to the Participants. Where an issue remains unresolved, the Department will make the final determination and inform **[INSERT FISH HABITAT BANK PROPONENT ACCOUNTABLE OFFICE HERE]** in writing in a timely manner.

12. PROGRESS REPORT

The **[NAME OF FISH HABITAT BANK PROPONENT HERE]** will prepare a Progress Report (i.e., Annex D) on the achievements and challenges encountered during the reporting period of this arrangement as it relates to the Purpose. The Progress Report should also include a summary of:

- The conservation projects undertaken, the status of the projects (i.e. started, under construction or monitoring, etc.), the performance of the conservation projects to date, and any related complete monitoring reports pursuant to paragraph 42.02(3)(c)(v) of the *Fisheries Act*.
- A summary of the fish habitat credit ledger as well as an accounting of all the transaction for the year.

The Progress Report should be submitted within 90 calendar days from the conclusion of each year. A year will be considered to run from April 1 to March 31.

The Progress Report will be submitted to the Office of signatories of the arrangement, **[INSERT FISH HABITAT BANK PROPONENT ACCOUNTABLE OFFICE HERE]** and Regional Director, Ecosystems Management, of **[INSERT NAME OF DEPARTMENTAL REGION HERE]** for their concurrence.

All progress reports shall FORM PART OF THE RECORD OF THE CONSERVATION PROJECT ANNEX D

13. REVIEW

After the first **[INSERT THE NUMBER OF YEARS FOR THE REVIEW PERIOD]** -year term that this arrangement is in effect and every **[INSERT THE NUMBER OF YEARS FOR THE REVIEW PERIOD]** -year term after that, the Regional Director, Ecosystems Management, of **[INSERT NAME OF DEPARTMENTAL REGION HERE]** Department Region **may** establish a review team consisting of **[INSERT FISH HABITAT BANK PROPONENT ACCOUNTABLE OFFICE HERE]** and Regional Fish and Fish Habitat Protection Program Manager/Team Leader of **[INSERT NAME OF DEPARTMENTAL REGION HERE]** Departmental Region or appropriately qualified third party to review the effectiveness of activities under this arrangement. This review team will report to the Regional Director, Ecosystems Management, of **[INSERT NAME OF DEPARTMENTAL REGION HERE]** within six months of being established.

14. AMENDMENTS

The arrangement may be amended at any time in writing by mutual consent of the Participants. An amendment will be confirmed by an exchange of letters, signed by the Participants, setting out the amendment and the date that it comes into force.

It is important to note that amendments are considered Crown conduct, trigger the duty to consult with Indigenous peoples when Aboriginal or treaty rights may potentially be adversely impacted by the proposed amendments.

15. FINANCIAL RESPONSIBILITIES

This arrangement will not impose any additional financial responsibilities on its participants, except that each participant will be responsible for the staff and funding costs it incurs in its own interests, related to the support of the arrangement.

16. DURATION, WITHDRAWAL AND TERMINATION

The arrangement will expire after the first **[INSERT THE NUMBER OF YEARS FOR THE REVIEW PERIOD]** -year term that this arrangement is in effect and every **[INSERT THE NUMBER OF YEARS FOR THE REVIEW PERIOD]** -year term after that after the date that the arrangement comes into effect. **[NAME OF FISH HABITAT BANK PROPONENT HERE]** can request a renewal of the arrangement for an additional defined term by providing one year's written notice to the other Participant. Any Participant may terminate this arrangement by providing six months written notice to the other participant.

If the proponent chooses not to request a renewal of the arrangement; or the proponent or the Department requests the termination of the arrangement, then the available (i.e., unused) certified habitat credits on the credit ledger may be forfeited.

17. LEGAL DISCLAIMER

This arrangement is an expression of the mutual intentions of the Participants and is not legally binding on them or enforceable against them.

The *Fisheries Act* establishes a set of key definitions (i.e., section 42.01) and statutory requirements for all parties of arrangements respecting fish habitat banks pursuant to sections 42.02 to 42.03 of the *Fisheries Act*. In the event of an inconsistency between this arrangement respecting fish habitat banks and the *Fisheries Act* and its Regulations, or the *Species at Risk Act*, the legislation will prevail.

18. CONTACTS

[FULL NAMES AND POSITION OF THE CONTACT PERSONS OF THE PARTICIPANTS]

COMES INTO FORCE DATE AND SIGNATURE

This arrangement has been signed by the Regional Director of **[INSERT NAME OF REGION]** Region of Fisheries and Oceans on behalf of Her Majesty the Queen in Right of Canada and by the **[NAME OF FISH HABITAT BANK PROPONENT]** on the dates noted below.

SIGNED IN THE PRESENCE OF:
FOR HER MAJESTY THE QUEEN IN RIGHT OF CANADA

Regional Director,
Ecosystems Management,
of [INSERT NAME OF DEPARTMENTAL REGION HERE]
of Fisheries and Oceans Canada

Witness

[INSERT NAME] _____
Regional Director,
Ecosystems Management,
of [INSERT NAME OF DEPARTMENTAL REGION HERE]
of Fisheries and Oceans Canada

[INSERT DATE] _____
Date

FOR Fish Habitat Bank Proponent **[NAME OF FISH HABITAT BANK PROPONENT]**

President of [NAME OF FISH HABITAT BANK PROPONENT] **Witness**

[INSERT NAME] _____
President of [NAME OF FISH HABITAT BANK PROPONENT]

[INSERT DATE] _____
Date

This arrangement comes into effect on the date noted above.

**ANNEX A: Description of the Administration, Management and General Operation of the
*[INSERT NAME OF FISH HABITAT BANK]***

Information Required	Description
Fish Habitat Bank Location	<p>Provide a description of where the fish habitat bank is located and will operate as well as a description on how to access the site. The description should include a map that illustrate the following:</p> <ol style="list-style-type: none"> i. Delineation of the fish habitat bank service areas. ii. General location of conservation project(s) sites within the service area. iii. Letter signed by the landowner confirming access to the conservation project site(s) by the Department’s staff, or anyone authorized to act on the Department’s behalf, for the length of the arrangement.
Habitat Bank Administration	<p>Describe the administration, management and general operation of the fish habitat bank including:</p> <ul style="list-style-type: none"> • Conservation project proposal procedure and approval process. • Habitat credit certification process. • Habitat credit evaluation and re-evaluation process. • Habitat credit accounting procedures respecting the habitat credit ledger. • Insert other relevant statements related to the administration of the fish habitat bank
Coming Into Force Date	Provide the comes into force date of the bank

ANNEX B: Conservation Project Plan	
Information Required	Description of the Information
Proposed Conservation Project	<ul style="list-style-type: none"> • Describe the proposed Conservation Project, the associated infrastructure, any permanent or temporary structure involved and the construction methodologies, building materials including physical and biological components, explosives, machinery and other equipment that will be used. • Provide the conservation project engineering specifications, scale drawings and dimensional drawings. • Describe the anticipated phases, including the sequencing of the phases, of the proposed conservation project. • Describe the location of the proposed conservation project, including: <ol style="list-style-type: none"> a) geographic coordinates; b) a small-scale site plan identifying the overall location and boundaries; c) a large-scale site plan indicating the size and spatial relationship of the planned facilities, infrastructure and other components and of any existing structures, landmarks, water sources or water bodies and other geographic features; and d) the name of any watersheds, water sources and water bodies that are likely to be affected and the geographic coordinates of the water sources and water bodies. • The name of the community nearest to the location and the name of the county, district or region and the province in which the proposed conservation project will be carried out. Include a map showing the general location of conservation project sites within the service area of the fish habitat bank.
Fish and Fish Habitat Found at the Location of the Proposed Conservation Project (Baseline of the Freshwater or Marine Environment)	<ul style="list-style-type: none"> • Quantitatively describe the fish and fish habitat found at the location of the proposed conservation project site and within the area likely to be affected by the proposed conservation project, including: <ol style="list-style-type: none"> a) the type of water source or water body; b) the characteristics of the water source or water body and how those characteristics directly or indirectly support fish in carrying out their life processes; c) the fish species that are present and an estimate of the abundance of those species, in particular any aquatic species at risk listed on Schedule 1 of <i>Species at Risk Act</i> and their status; d) the aquatic invasive species (including non-indigenous species) that are present in proposed conservation project site and its vicinity; and

	<p>e) a description of how the information provided under paragraphs (a) to (d) was derived, including the sources, methodologies and sampling techniques used.</p>
<p>Predicted Effects on Fish and Fish Habitat at the Proposed Conservation Project Site</p>	<ul style="list-style-type: none"> • Provide a detailed quantitative description of: <ul style="list-style-type: none"> a) how the effects referred to in subsection (1) (i.e., fish and fish habitat found at the location of the proposed conservation project) are likely to result in the death of fish or the harmful alteration, disruption or destruction of fish habitat, and adverse effects on listed aquatic species at risk, their critical habitat and residences; and b) the extent of the elements referred to in paragraph (a).
<p>Measures and Standards to Avoid or Mitigate Adverse Effects on Fish and Fish Habitat for the Proposed Conservation Project</p>	<ul style="list-style-type: none"> • Describe the measures and standards that will be implemented to avoid or mitigate the adverse effects on fish and fish habitat as a result of the proposed conservation project, including an analysis of the expected effectiveness of those measures and standards to avoid or mitigate the adverse effects on fish and fish habitat. • Describe the measures and mitigation methods (e.g., clean, drain dry, and decontaminate) that will be implemented to avoid the introduction or spread of aquatic invasive species (including non-indigenous species). • Describe the monitoring measures that will be put in place to assess the effectiveness of the measures and standards to avoid and mitigate the adverse effects on fish and fish habitat referred to above. • Describe the contingency measures that will be implemented if the measures and standards to avoid and mitigate the adverse effects on fish and fish habitat referred to above are not successful in avoiding or mitigating the adverse effects on fish and fish habitat of the conservation project.
<p>Fish Habitat Benefits of the Proposed Conservation Project</p>	<ul style="list-style-type: none"> • Describe the structure and function of the fish habitat that will result from the habitat creation, restoration or enhancement measures that will be implemented (e.g., in terms of physical, chemical and biological characteristics). • Describe the fish habitat indicators, and the performance target for each fish habitat indicator. • If the conservation project is anticipated to benefit species at risk, indicate which species will benefit and describe the structure and the function of the habitat that will benefit that species.
<p>Monitoring, Maintenance and Contingency Measures for the Proposed</p>	<ul style="list-style-type: none"> • Describe the monitoring measures that will be put in place to assess the effectiveness of the conservation project in terms of the fish and fish habitat benefits stated above. This should include the sampling methodology, data sources and, monitoring frequency of the fish habitat indicators.

<p>Conservation Project</p>	<ul style="list-style-type: none"> • Describe the maintenance measures that will be implemented to ensure the conservation project is achieving the fish and fish habitat benefits (i.e., performance targets for fish habitat indicators) over the long-term. • Describe the contingency measures and associated monitoring measures that will be put into place if the conservation project is not successful in achieving the performance targets for fish habitat indicators. • Describe the monitoring schedule for the above and the reporting schedule for the monitoring outputs. • Describe the fish habitat bank closure plan for when the bank is complete (i.e., all construction phases and monitoring is complete, and all earned credits have been allocated) that ensures the conservation project continues to achieve the fish habitat benefits over the long-term.
<p>Habitat credits that will be Established by the Proposed Conservation Project</p>	<ul style="list-style-type: none"> • Provide a general description of the habitat credits that will be generated by the fish habitat bank conservation project in terms of a unit of measure (e.g., m² or hectare); the general ecological structure and function; and how it will support the fish community, aquatic species at risk or both to carry out their life processes, and the types of habitat credits (e.g., for a particular aquatic species at risk). • Describe the types of adverse effects on fish and fish habitat that those habitat credits are designed to offset. • Identify the maximum number of habitat credits the conservation project could generate (e.g., the extent in square metres).
<p>Fish Habitat credit Release Schedule for the Proposed Conservation Project</p>	<ul style="list-style-type: none"> • Describe how habitat credits will be evaluated and re-evaluated (if applicable), and the habitat credit certification schedule in terms of the fish habitat indicators and performance targets. If a phased approach to habitat credit certification is proposed, details of the fish habitat indicators and performance targets for each phase of the Conservation project should be included.
<p>Land Ownership/Tenure for the Proposed Conservation Project</p>	<ul style="list-style-type: none"> • Describe the land ownership/tenure status of the lands, water sources or water bodies that are necessary for the implementation of the conservation project. The description may also include the steps that are proposed to be taken to obtain the permission/approval/permit required for the Fish Habitat Bank Proponent to access the lands, water sources or water bodies in question. • Written confirmation that the Department and anyone authorized to act on the Department’s behalf is authorized to access the site of the conservation project for the term of the arrangement. • List any permits and approvals, specific to land tenure/ownership necessary to implement the conservation project.

Indigenous and Stakeholder Consultation and Accommodations	<ul style="list-style-type: none">• Describe any engagement or consultation activities undertaken and the results in relation to the proposed conservation project, including with Indigenous communities or groups, interested stakeholders, and the public.
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ANNEX C: Habitat Credit Ledger

Transaction Date	PATH Identifier (e.g., PATH #; action log date)	Conservation project or W/U/A Subject to Application for Authorization	Supporting Documents	Habitat credit Type	Habitat credit Deposit (m²)	Habitat credit Withdrawal (m²)	Habitat credit Balance (m²)

**ANNEX D: Arrangement Progress Reports and Conservation Project Performance Reports
Template**

FISH HABITAT BANK ARRANGEMENT PROGRESS REPORT

NAME OF THE FISH HABITAT BANK ARRANGEMENT: [INSERT NAME OF FISH HABITAT BANK (INCLUDING THE BANK LOCATION)]

BACKGROUND

To establish the terms and conditions for the creation and management of a fish habitat bank by: establishing a working relationship between the Participants based on trust, accountability and information sharing; establishing a transparent process for managing a fish habitat bank; increasing certainty in the administration of a fish habitat bank. The arrangement came into effect on **[INSERT COMES IN FORCE DATE]**

Covered Period from : April 1, **[INSERT THE YEAR OF THE BEGINNING OF REPORTING PERIOD]**

To : March 31, **[INSERT THE YEAR OF THE END OF REPORTING PERIOD]**

ACHIEVEMENTS

- 1. [DESCRIBE THE ACHIEVEMENTS AND CHALLENGES ENCOUNTERED DURING THE REPORTING PERIOD OF THIS ARRANGEMENT AS THEY RELATE TO THE PURPOSE STATEMENT OUTLINED IN SECTION 2.]**
- 2. [DESCRIBE PROGRESS/ACTIVITIES STARTED/COMPLETED IN THE LAST YEAR]**
 - a. [SUMMARIZE THE CONSERVATION PROJECTs UNDERTAKEN, THE STATUS OF THE PROJECTs (I.E. STARTED, UNDER CONSTRUCTION OR MONITORING, ETC.), THEIR PERFORMANCE TO DATE];**
 - b. [SUMMARY OF THE FISH HABITAT CREDIT LEDGER AS WELL AS AN ACCOUNTING OF ALL THE TRANSACTION FOR THE YEAR]**
- 3. [PROVIDE A BRIEF DISCUSSION OF THE OBSTACLES THAT WERE MET OVER THE COURSE OF THE YEAR, THE PROGRESS TO BE ACHIEVED OVER THE NEXT YEAR, AND REMEDIAL MEASURES TO BE TAKEN (IF APPLICABLE)]**
- 4. [DISCUSS NEXT STEP FOR THE NEXT YEAR]**

CONCLUSION

[AN ASSESSMENT OF THE ACHIEVEMENTS TO DATE AND THE RELEVANCE OF THE ARRANGEMENT]

This report has been reviewed and approved by:

**Regional Director,
Ecosystems Management,
of [Region] of
Fisheries and Oceans Canada**

And

President of [Fish Habitat Bank Proponent]