



ECOSYSTEM TRADING

Ecosystem trading is quickly becoming an increasingly attractive, market-based approach to environmental protection regarding greenhouse gases, water, biodiversity, and conservation. Van Ness Feldman is a leader in the emerging ecosystem trading industry, and represents clients in navigating regulatory frameworks as well as in crafting creative approaches to an evolving landscape of offset mechanisms including mitigation banks and utilizing environmental mitigation to preserve, restore, or counterbalance a development's effect on nearby ecosystems.

Under Section 404 of the Clean Water Act, federal agencies, as well as many state and local governments, require mitigation measures for the disturbance or destruction of wetland, stream, or endangered species habitat. Once approved by regulatory agencies, a mitigation bank may sell credits to developers whose projects will impact these various ecosystems. The firm's environmental attorneys have significant experience in both the creation of the banking/trading instrument, as well as providing counsel to those who purchase ecosystem credits to facilitate development. Representation includes drafting key provisions of Mitigation Banking Instruments (MBI), negotiating with Interagency Review Teams, drafting conservation easements to assure long term protection of mitigation banks, and advising mitigation bank sponsors on compliance with applicable federal, state and local environmental laws and regulations.

In response to the nation's need for ecologically sensible development, public and private clients are increasingly using an ecosystem mitigation/banking approach to offset unavoidable environmental impacts. Attorneys at Van Ness Feldman have the experience to help clients create more sustainable systems, and with proper implementation, increase ecological benefits, save money for project applicants, and improve efficiencies in application and permitting processes.

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