



SOUTH FLORIDA WATER MANAGEMENT DISTRICT

Memorandum

**To: Tom Olliff, Assistant Executive Director
Ken Ammon, Deputy Executive Director**

From: John W. Williams, Esq. Inspector General

Date: December 6, 2007

Subject: Audit of the Corkscrew Regional Mitigation Bank - Report # 08-01

BACKGROUND

In accordance with our FY 2008 audit plan, we audited the Corkscrew Regional Mitigation Bank's revenue and expenditures for the period January 6, 1998 (inception) to August 31, 2007. The South Florida Water Management District (the District) entered into an agreement on January 6, 1998 with Mariner Properties Development, Inc. (Mariner Properties) to design, construct and implement a mitigation bank restoration plan on 632 acres of District property located in Lee County. The agreement authorizes Mariner Properties to obtain required permits, market and sell mitigation bank credits, as well as manage, operate and maintain the site until it is turned over to the District for long-term management. However, prior to the project's completion, Mariner Properties has opted to sell their interest in the mitigation bank to Earthmark Mitigation Services. The new partner has conducted due diligence procedures but has also asked for an audit of the mitigation bank costs to date.

Section 373.4135, Florida Statutes, directed the District to participate in and encourage the establishment of private and public mitigation banks. Mitigation Banking is the process of restoring, enhancing, creating, or preserving wetlands and/or uplands to offset unavoidable adverse on-site impacts resulting from regulated activities, such as development. If wetlands will be impacted, developers or other permit applicants are required to submit mitigation proposals detailing how the impact will be mitigated

Mitigation banks are a popular option to satisfy wetland impacts when off-site mitigation is acceptable and permit applicants can purchase the credits from the banks to satisfy their mitigation obligations.

Mitigation banks are permitted either by the Department of Environmental Protection Agency (DEP) or a water management district to create, restore, or enhance a large wetland ecosystem including any associated uplands and awarded credits by the permitting agency for their mitigation efforts. A credit is equivalent to the ecological value gained by the successful creation of one acre of wetland. The number and types of mitigation credits awarded to a bank is based on several factors, for example, the quality and quantity of wetland or upland restoration, enhancement, preservation, or creation. After restoration work at the Corkscrew Regional Mitigation Bank is completed, Mariner Properties expects 351 credits will be awarded.

OBJECTIVE SCOPE AND METHODOLOGY

The objective of the audit was to determine whether the Corkscrew Regional Mitigation Bank revenue is reasonably stated and expenditures are reasonable, necessary and allowable. In order to accomplish our objectives, we performed the following procedures:

- Visited the Corkscrew Regional Mitigation Bank site.
- Reviewed expenditure detail provided by Mariner Properties.
- Agreed expenditures on a sample basis to invoices and cancelled check or bank statements.
- Agreed Mitigation Bank credit deposits to entries in bank statements.

Our audit was conducted in accordance with Generally Accepted Government Auditing Standards. These standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Corkscrew Regional Mitigation Bank
Revenue and Expenditures
For the Period January 6, 1998 (Inception) - August 31, 2007

Mitigation Bank Credit Revenue	Total
Sale of Mitigation Bank Credits	<u>\$10,704,793</u>
Mitigation Bank Restoration Costs	
Phase 1	\$1,949,757
Phase 2	710,708
Phase 3 & 4	943,280
Permitting	<u>382,935</u>
Total Restoration Costs	<u>\$3,986,680</u>
General and Administrative Costs	
Corporate Overhead	\$365,410
Accounting	85,200
Marketing	75,869
Insurance	30,436
Interest (net of income)	<u>(130,245)</u>
Total General and Administrative Costs	<u>\$426,670</u>
Total Restoration and General and Administrative Costs	<u>\$4,413,349</u>

Note: Mariner Properties estimates the cost to complete restoration of the Corkscrew Regional Mitigation Bank to be \$4 million.

AUDIT RESULTS

We verified all mitigation bank credit sales to signed agreements and we traced credit buyer deposits of \$5,482,792 to the bank statements. According to the Department of Environmental Protection, the Corkscrew Regional Mitigation Bank will be awarded 351.37 credits. The release of credits will be tied to the completion of specified restoration activities and attainment of certain project success benchmarks, which are described in the mitigation bank permit document.

The mitigation bank credit revenue of \$10,704,793 represents signed contracts for the sale of 219.1 credits through August 31, 2007; however, none of these sales have been closed and none of the credits have been withdrawn yet. Consequently, no cash from credit sales has been distributed to the District yet. (See addendum 1 and 2 for Proforma Corkscrew Mitigation Bank forecast of Revenue and Expenditures through project completion.)

Significant expenditures included restoration costs of \$3,986,680 and General and Administrative costs of \$426,670, which primarily consists of Mariner Properties corporate overhead and accounting. We verified 82% of restoration expenditures to vendor invoices and cancelled checks or bank statements, noting no exceptions. We also reviewed the basis used to determine overhead charges and accounting costs and found it was reasonable. Therefore, total charges of \$450,610 for these expenses appears reasonable and allowable. The basis for allocating marketing and insurance costs of \$75,869 and \$30,436, respectively, also appears reasonable.

Imputed interest income of \$130,245 represents interest accrued and due to the Corkscrew Regional Mitigation Bank from Mariner Properties, based on monthly intercompany balances (Mariner Properties and Corkscrew Regional Mitigation Bank) as determined by an outside accountant. The interest was accrued at an 8% rate, which we determined was reasonable.

Based on our audit work, we conclude that mitigation bank credit sales are reasonably stated and the mitigation bank expenditures incurred from inception to August 31, 2007, were reasonable, necessary and allowable.

Going forward, the District's project manager should obtain an understanding of the new partner's strategy for completing the Corkscrew Regional Mitigation Bank project and their estimated allocations of overhead and other costs.

C: Ruth Clements
Marjorie Moore
David Black
Ray Pavelka (Mariner Properties Development, Inc.)
Denice Bishop (Earthmark Mitigation Service)

**Corkscrew Regional Mitigation Bank
Proforma Revenue and Expenditures
For the Period January 6, 1998 (Inception) – December 31, 2014¹**

	January 6, 1998 to <u>August 31, 2007</u>	Estimated September 1, 2007 through <u>December 31, 2014</u>	Estimated Total January 6, 1998 through December 31, 2014
Sale of Mitigation Bank Credits	<u>\$10,704,793</u>	<u>\$8,655,207</u>	<u>\$19,360,000</u>
Mitigation Bank Costs			
Restoration Costs	\$3,986,680	\$3,600,000	\$7,586,680
General and Administrative Costs	<u>426,670</u>	<u>400,000</u>	<u>826,670</u>
Total Mitigation Bank Costs	\$4,413,350	\$4,000,000	\$8,413,350
District Land Cost Reimbursement	<u>\$2,700,000</u>	_____	<u>\$2,700,000</u>
Total Mitigation Bank Costs and District Land Reimbursement	\$7,113,350	\$4,000,000	\$11,113,350
5% Mitigation Bank Sale Commission	_____	<u>\$968,000</u>	<u>\$968,000</u>
Total Costs and Reimbursement	<u>\$7,113,350</u>	<u>\$4,968,000</u>	<u>\$12,081,350</u>
Cash Available for Distribution	<u>\$3,591,443</u>	<u>\$3,687,207</u>	<u>\$7,278,650</u>
Estimated Distribution to Long Term Maintenance Fund			\$1,936,000
Estimated Mitigation Bank Partner Distribution			\$2,430,060
Estimated District Distribution			\$2,912,590

See notes to the Proforma Revenue and Expenditures statement at Addendum 2

¹ Estimated date that the Corkscrew Regional Mitigation Bank is turned over to the District.

Notes to the Proforma Revenue and Expenditures Statement

Mitigation Bank Credits

The sale price of the Corkscrew Mitigation Bank credits are negotiated, however, market conditions influence the negotiated price. We used a \$65,000 per mitigation credit price for sales subsequent to August 31, 2007, which is supported by previous sales.

Restoration Costs

Estimated costs to complete restoration of the Corkscrew Mitigation Bank were determined by the current mitigation bank partner and reviewed by Earthmark, Inc.

General and Administrative Costs

The costs primarily consist of Mitigation Bank partner's corporate overhead, insurance and marketing. Since the project's inception, these costs have been approximately 10% of restoration costs. Accordingly, we used 10% of restoration costs to estimate the forecasted project expenditures.

District Land Reimbursement and 5% Mitigation Bank Sales Commission

These amounts are stipulated in the agreement.

Distributions

Long-Term Maintenance Fund, District and Mitigation Bank partner distributions of cash after restoration costs and other outflows are determined by the agreement. The Long Term Maintenance Fund (based on 10% of Mitigation Bank Credit Sales) is established to provide funding for Corkscrew Mitigation Bank property maintenance. However, if the District and Mitigation Bank partner mutually agree that all or a portion of the fund is no longer required, the excess funds will be distributed in accordance with contract provisions.