Mitigation Banks & In-lieu Fee Programs

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Benefits

- Reduces risk & uncertainty
- Potential for multiple agency credits
- Emphasizes regional planning efforts & best available science.
- More efficient compliance
- May streamline permitting, by reducing evaluation efforts on mitigation proposals
- Ensures predictability





Drawbacks

- Failure may result in substantial loss of aquatic resource function
- Migration of functions and services
- Extensive time & effort in instrument development & oversight
- Development driven
- Differing goals for each agency/sponsor





Benefits of Each

Both

- ▶ Compensation for a range of resources
- Sponsor interest in conservation

ILFs

- ► Mitigation when/where a bank is not available
- More thorough evaluation of the needs of the watershed
- Consideration of appropriate locations and mitigation types to sustain and enhance the watershed

Banks

- ▶ Advance site identification
- Credit release linked to performance
- Compensation in advance of impacts





Drawbacks of Each

Mitigation Banks

- ► Site location preference by sponsor, driven by land cost
- ▶ Less likely to be developed in a small or weak market

In-lieu fee programs

- ► Risk of mitigation not being implemented
- ► Temporal lag between permitted impacts and project implementation
- ► Inadequate compensation for impacts





Difference Between Banks & ILF's

In-lieu Fee Program:

- ▶ Gov't or non-profit conservation organization
- ► Fees often received before mitigation construction
- Corps approves funding disbursements from the ILF program account for ILF projects

Mitigation Banks:

- ▶ Public or Private sponsor
- ► Site secured & project initiated in advance of debits
- ► Corps does not control credit cost

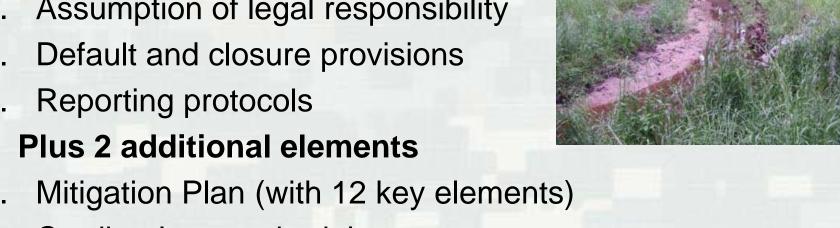




Mitigation bank instrument must include:

- 1. Service area
- 2. Accounting procedures
- Assumption of legal responsibility

- 7. Credit release schedule







ILF instrument must include:

- 1. Service area(s)
- 2. Accounting procedures
- 3. Assumption of legal responsibility
- 4. Default and closure provisions
- 5. Reporting protocols
- Plus 4 additional elements
- 6. Compensation planning framework
- 7. Specification of initial allocation of advance credits
- Methodology for determining project-specific credits and fees
- 9. Description of ILF program account







ILF Program Advance Credits

- Approved instrument required
- A cap on advanced credits per each service area
- # advance credits based on:
 - Compensation planning framework
 - Sponsor's past performance/qualifications
 - ► Financing needed for mitigation implementation
- As projects produce <u>released</u> credits, <u>advance</u> credits are fulfilled and available again





ILF Program Advance Credits

 Land acquisition and improvements must be initiated by the 3rd growing season after first advance credit is







Example (NC EEP) ILF Program Schedule

Fee Category	Unit	Fee per Unit - Higher Fee HU	Fee per Unit - Lower Fee HU
Riparian Buffer	Sq.ft	\$0.96	\$0.96
Stream	Lin.ft	\$344	\$260
Non-riparian wetland	Acre	\$45,752	\$23,528
Riparian wetland	Acre	\$63,414	\$35,853
Coastal wetland	Acre	\$155,998	\$155,998



(High fee factors include: urban constraints, higher land costs, and limited restoration opportunities.)



Credit Release Schedule Example

- Wetland Establishment
 - 30% Initial Release
 - 20% Release for meeting hydrology
 - 20% Release planting completion
 - 30% release when all performance standards are met





More information

HQUSACE

http://www.usace.army.mil/Missions/CivilWorks/RegulatoryProgramandPermits/mitig_info.aspx

USACE Sacramento District

http://www.spk.usace.army.mil/Missions/Regulatory/Mitigation.aspx

USEPA

http://water.epa.gov/lawsregs/guidance/wetlands/wetlandsmitigation_index.

RIBITS

https://rsgisias.crrel.usace.army.mil/ribits/





