

Introduction to ILF Project Development and Approval

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US Army Corps of Engineers
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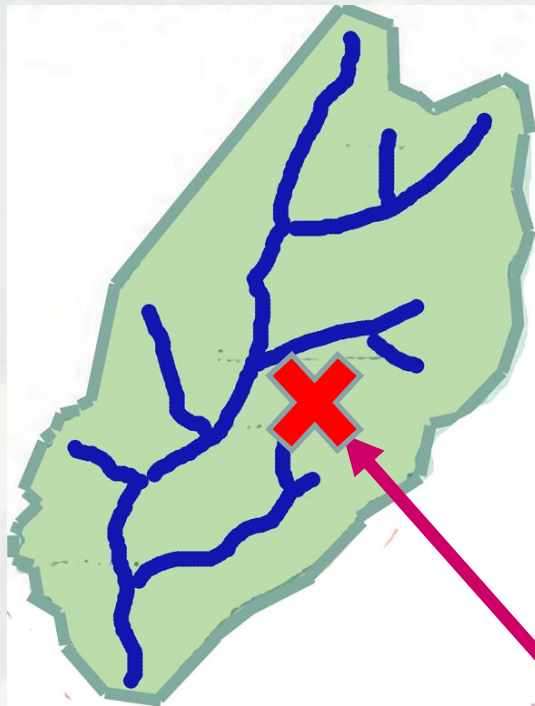
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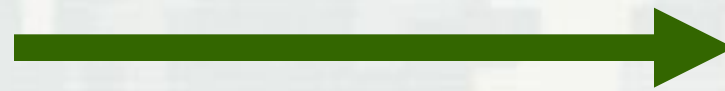
The 2008 Mitigation Rule does **NOT** indicate **HOW** ILF mitigation projects should be developed

Only **WHAT** must be included in an ILF project and **WHEN** it must be implemented





Service Area



Advance Credits



**Debit =
Promise of
Future
mitigation**

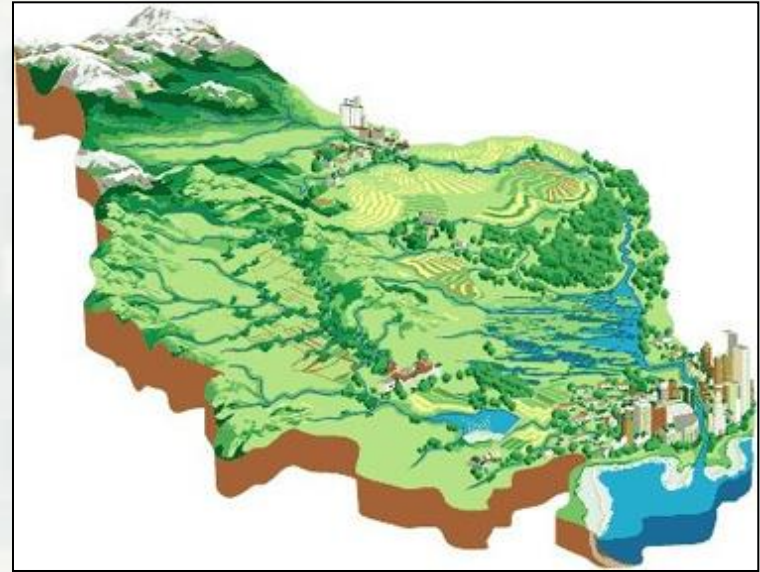


Successful implementation of projects = securing the mitigation obligation on the ground 33 CFR 332.8(n)(3)



All ILF projects
must be
consistent with
the ILF
Compensation
Planning
Framework

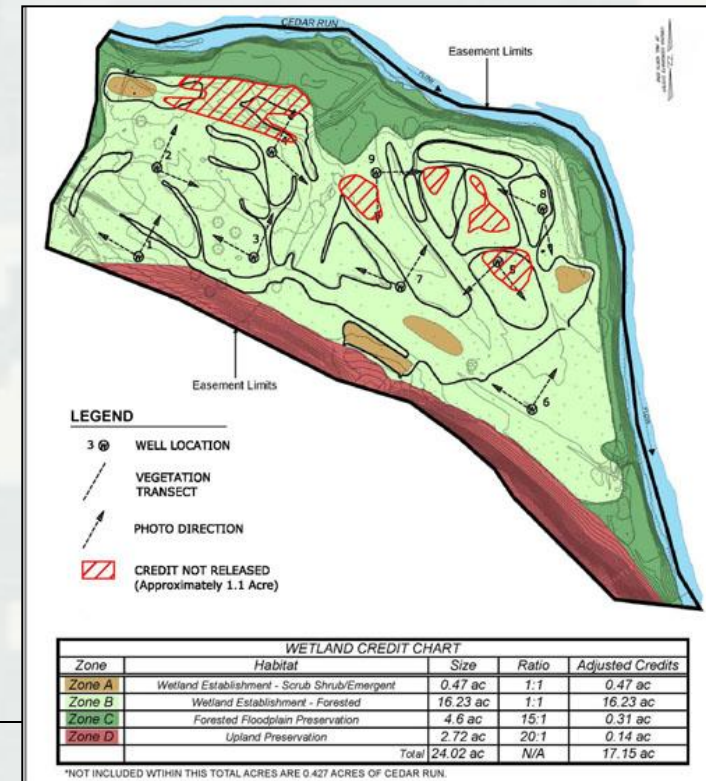
33 CFR 332.8(c)(1)



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Mitigation Plans must have/address these elements *33 CFR 332.4(c)*

1. Objectives
2. Site protection instrument
3. Baseline information
4. Work plan
5. Maintenance plan
6. Performance standards
7. Monitoring requirements
8. Financial assurances
9. Site selection factors
10. Credit determination
11. Long-term management plan
12. Adaptive management plan



ILF project implementation

- Land acquisition & initial physical/biological improvements by **3rd growing season (3rd year)** after first advance credit is **secured** by permittee*

33 CFR 332.8(n)(4)



Different approaches to ILF project development:

- Design and build
- Design-Bid-Build
- Request for Proposals
 - Full Delivery Project
 - Letter of Intent process
- Purchase Bank Credits



Leveraging - ILF funds have been used as matching funds for larger projects

Caution:

- ILF program account for mitigation fees only!
Do **NOT** commingle with other funds
33 CFR 332.8(i)(1)
- Make sure grant allows mitigation funds as a match
- Mitigation credits are **ONLY** generated by mitigation funds
- Non mitigation federal funded restoration **CANNOT** generate 404 credits *33 CFR 332.3(j)(2)*



Modification of Third Party Instruments

- **Full Modification including:**
 - ▶ Umbrella bank sites
 - ▶ **In-lieu fee project sites**
 - ▶ Site expansion
 - ▶ New credit types
- Streamlined process
 - ▶ Changes based on adaptive management
 - ▶ Changes in credit release schedules
 - ▶ Changes district engineer determines are not significant



Compensatory Mitigation Rule Timeline for Bank or ILF Instrument Approval*

	Event	# of Days**	
Phase I	Optional Preliminary Review of Draft Prospectus	30	DE provides copies of draft prospectus to IRT and will provide comments back to the sponsor within 30 days.
Sponsor Prepares and Submits Prospectus ~DE must notify sponsor of completeness w/in 30 days of submission~			
Day 1** Complete Prospectus Received by DE			
Phase II	Day 30 Public notice must be provided within 30 days of receipt of a complete prospectus	30	
Day 60	30-Day Public Comment Period	30	
Day 90	DE must provide the sponsor with an initial evaluation letter within 30 days of the end of the public comment period.	30	
		15	DE distributes comments to IRT members and sponsor within 15 days of the close of the public comment period.
Sponsor Considers Comments, Prepares and Submits Draft Instrument ~DE must notify sponsor of completeness w/in 30 days of submission~			
Day 1 Complete Draft Instrument Received by IRT Members			
Phase III	30-day IRT comment period begins 5 days after DE distributes draft instrument to IRT members	30	
Day 90	DE discusses comments with IRT and seeks to resolve issues ~ # of days variable~	60	
		90	Within 90 days of the receipt of a complete draft instrument by IRT members, the DE must notify the sponsor of the status of the IRT review.
Sponsor Prepares Final Instrument ~Sponsor provides copies to DE and all IRT members~			
Day 1 Final Instrument Received by DE & IRT			
Phase IV	Day 30 DE must notify IRT members of intent to approve/not approve instrument within 30 days of receipt.	30	
Day 45	Remainder of time for initiation of dispute resolution process by IRT members	15	
		45	IRT members have 45 days from submission of final instrument to object to approval of the instrument and initiate the dispute resolution process.
INSTRUMENT APPROVED/NOT APPROVED, or DISPUTE RESOLUTION PROCESS INITIATED			

EPA/Corps draft 4/02/08

Total Required Federal Review (Phases II-IV): ≤225 Days

*Timeline also applies to amendments

**The timeline in this column uses the maximum number of days allowed for each phase.



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Steps in project approval

- Draft Prospectus (optional ***BUT*** recommended)

- Prospectus

(Initial Evaluation not required!)

- Draft Modification/Plan

- Final Modification/Plan



Approaches to Project Approval



- Opportunistic
- Permitting process
- Regular Public Schedule



ME NRCP Annual Project Approval Timeline

	June	July	Aug	Sept	Oct	Nov	Dec
LOI	█						
Proposal			█				
PN					█		
Review Committee				█			
Approval Committee		█				█	
Awards							█



Recommendations

1. Pre-application/draft prospectus
2. Projects consistent with the CPF
3. Due diligence – early is best
4. Work with the landscape
5. Don't oversell
6. Stay calm & professional

