

Getting Started - ILF Development

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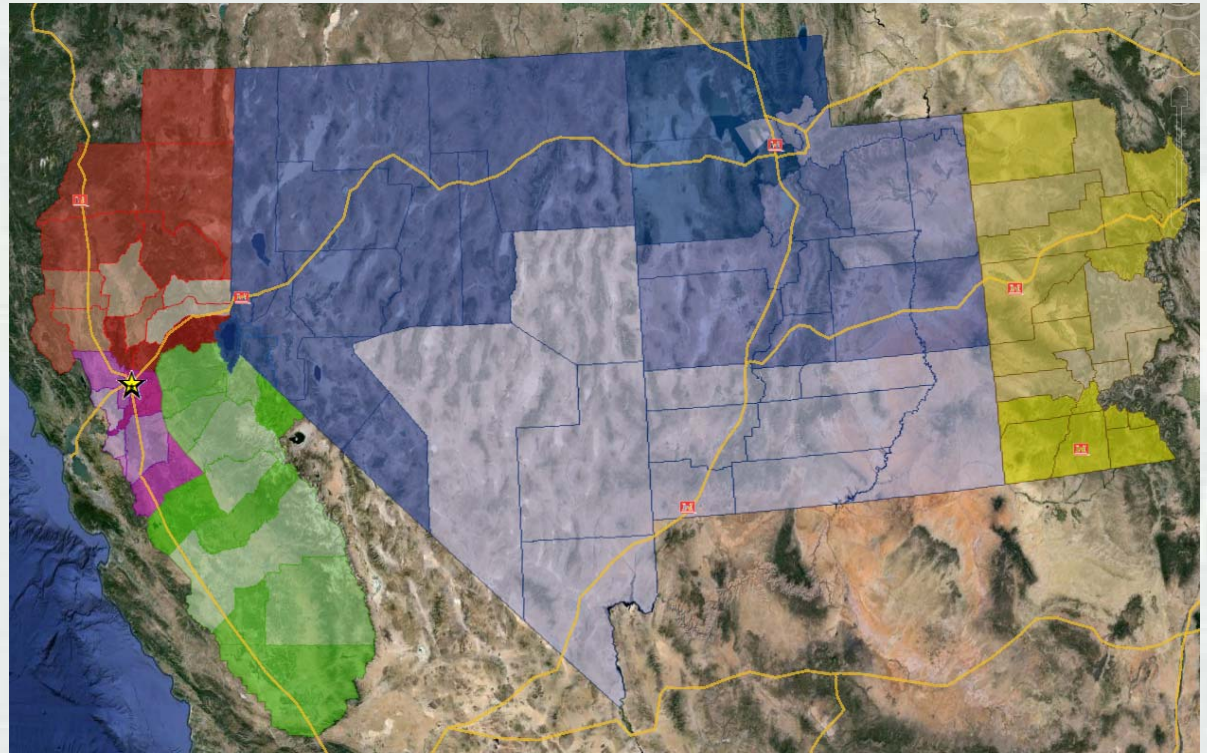


US Army Corps of Engineers
BUILDING STRONG



Topics Covered

- ILFs and the 2008 Mitigation Rule
- IRT Review
- Scoping an ILF Program
- Tips for IRT Coordination



ILF Programs and the 2008 Mitigation Rule

- Jointly developed by the Corps and USEPA
 - Section 314 of the National Defense Authorization Act (NDAA) for FY 2004
- ILF Programs can fulfill an important role in providing effective mitigation in unserved areas
- Looked at existing successful ILF Programs to improve accountability and performance



Mitigation Rule – ILF Requirements

- Applies equivalent standards to all forms of compensatory mitigation (e.g. permittee-responsible, mitigation banks, and ILFs)
- Added requirement that ILF Sponsors must be governmental or non-profit organizations (see definition of ILF Program at 332.2)
- Establishes a cap on the number of credits the ILF Program can sell before initiating compensatory mitigation at an ILF site (332.8(n))



Mitigation Rule – ILF Requirements Cont'd

- Provision requiring land acquisition and initial physical and biological improvements be completed by the third full growing season (332.8(n)(4))
- Added the requirement for a Compensation Planning Framework (332.8(c))
- Added provision that requires ILF Programs to establish a program account, including criteria for the management of this account (332.8(i))
- Added provision for the estimation of costs and the establishment of adequate fee schedules (332.8(o)(5))



ILF Prospectus Review

- Optional preliminary review of draft Prospectus
 - ▶ IRT review 30 days
- Complete Prospectus Received by IRT Members
 - ▶ Corps 30 days to issue PN
 - ▶ 30 Day Comment Period
 - ▶ Initial Evaluation letter due within 30 days of end of comment period



Draft ILF Instrument Review

- Complete ILF Instrument received by IRT Members
 - ▶ 30 day IRT comment period begins 5 days after DE distributes IRT to Members
 - In SPK Sponsor distributes ILF documents to the IRT Members.
 - ▶ Within 90 days DE must notify the sponsor the of status of the IRT review.
 - ▶ Here is where comments from the IRT may result in additional review of the draft Instrument.



Final ILF Instrument Review

- Final Instrument received by IRT
 - ▶ DE must notify IRT members of intent to approve/not approve instrument within 30 days
 - ▶ IRT members have 45 days to object to the approval and initiate dispute resolution process
 - ▶ Must explain how the final addresses the comments provided by the IRT
- Corps may announce the approval of a in-lieu fee program through a public notice



Tips for Successful IRT Coordination

- Data: Quality over Quantity
- Know your mitigation demand
 - ▶ Historic and projected
- Talk early and often with your IRT Members
 - ▶ Bad news doesn't get better with age
- Remember economies of scale
 - ▶ Credit pricing
 - ▶ Service Area
 - ▶ Program Area



Scoping an ILF Program

- Historic and Projected Impacts
- Service Area
- Credit Types and Fees
- Compensation Planning Framework
- Long-term Site Managers
 - ▶ Sponsor or another IRT-approved entity (332.8(u)(2))



Questions?

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