

February 10th, 2016



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Wetland In Lieu Fee Coordinator

<u>Agenda</u>

- The Process
- Required Resources
- Key Program Elements
 - Credit Fee
 - Advanced Credits
 - Released Credit Schedule
 - Compensation Planning Framework
- Staffing Considerations
 - Program Demand
- Mitigation Process
- Current & Future Challenges
- Helpful Resources





Perspective



- New Wetland Regulations effective July 2012
 - "...the Department may establish an in lieu fee subprogram,..."
 - State Wetland Permits Required Mitigation for first time
- Mitigation Banking since 2002
 - not enough credits to new mitigation demand, backlog
- Provide full suite of Mitigation Options
 - Banking, In Lieu Fee, Permittee Responsible
- Our Program Objectives
 - Focus on the greatest watershed needs
 - Complete projects on the ground selected through a watershed approach

The Process

Setting Realistic Expectations

- Total Federal Review
 - 225 days / 7.5 months / 0.61 years
- Doesn't include Sponsor response
- Our WI Program Approval
 - 614 days / 20 months / 1.68 years
- Why the extra year?
 - Credit Fee
 - Advanced Credits
 - Compensation Planning Framework
 - GIS support



Compensatory Mitigation Rule Timeline for Bank or ILF Instrument Approval* DE provides copies of draft prospectus to IRT Optional Preliminary Review of Draft and will provide comments back to the sponso Prospectus within 30 days. Sponsor Prepares and Submits Prospectus ~DE must notify sponsor of completeness with 30 days of submission Complete Prospectus Received by DE Public notice must be provided within 30 days of receipt of a complete prospectus 30-Day Public Comment Period DE distributes comments to DE must provide the sponsor with an IRT members and soonsor within 15 days of the close of initial evaluation letter within 30 days the public comment period. of the end of the public comment Sponsor Considers Comments, Prepares and Submits Draft Instrument -DE must notify sponsor of completeness win 30 days of submission-Complete Draft Instrument Received by IRT Members 30-day IRT comment period begins 5 days after DE distributes draft instrument to IRT members Within 90 days of the receipt of a DE discusses comments with IRT and complete draft instrument by IRT 60 seeks to resolve issues bers, the DE must notify the sconsor ~ # of days variable~ of the status of the IRT review. Day 90 Sponsor Prepares Final Instrument Soonsor provides copies to DE and all IRT members Final Instrument Received by DE & IRT DE must notify IRT members of intent to approve/not approve instrument 30 IRT members have 45 days from within 30 days of receipt. submission of final instrument to object to Day 30 approval of the instrument and initiate the Remainder of time for initiation of dispute resolution process. dispute resolution process by IRT INSTRUMENT APPROVED/NOT APPROVED, or DISPUTE RESOLUTION PROCESS INITIATED EPA/Corps draft 4/02/08

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

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

*Timeline also applies to amendments

Required Resources



- Dedicated Staff & Funding
- Program Scope / Service Areas (HUC)
- GIS support
- Baseline Data
- Permit / mitigation demand
 - Advanced Credits
- Credit Fee
 - True cost accounting



Credit Fee



- True Cost Accounting
- Inaugural Fee vs. Annual Adjustments
- Financial Assurances for Banks & Permittee Responsible
- Ballpark check National ILF scene
- Annual Adjustments
 - Not a modification to Instrument
 - Land Price Adjustment
 - Fee Components
 - Administrative +
 - Contingency +
 - Construction & Monitoring +
 - Long Term Management



How Many Advanced Credits?



- 33 CFR 332.8(n)
 - Compensation Planning Framework, Sponsor's project reputation, required project financing.
- Our WI Program:
 - Tangible equation
 - annual avg impact acres * Mitigation Ratio *3 years to fall!
 - Intangible adjustments
 - Service Area size & urbanization, Banking present current permit activity, anticipated activity (i.e. min.
- Hindsight
 - New regulatory climate, untested demands
 - Large utility projects, rail for non-metallic mining

Compensation Planning Framework

- Driving force behind your watershed approach.
 - Finding balance on the watershed spectrum?

Watershed-informed decision framework	Watershed analysis: Non- prescribed outcomes	Watershed plans: Prescribed outcomes
Decision-tree or questions to guide consideration of watershed factors.	Identifies watershed need(s).	Identifies watershed need(s).
Includes the consideration of watershed needs(s).	No or little translation of watershed need(s) into specific desired watershed outcome(s).	Describes specific, measureable desired watershed outcome(s).
Potential of site to develop and persist is determined through individual site assessments.	Includes analysis of the potential of sites to develop and persist in a particular location.	Includes analysis of the potential of sites to develop and persist in a particular location.
No assessment of the potential of sites to meet watershed need(s).	Assesses the potential of sites to meet watershed needs.	Assesses the potential of sites to meet watershed needs.
No comparison of the relative ability of sites to sustain desired characteristics and to address watershed needs.	Compares sites to evaluate their relative ability to sustain desired characteristics and to address watershed needs.	Compares sites to evaluate their relative ability to sustain desired characteristics and to address watershed needs.

Watershed Approach Handbook (ELI & TNC September 2014)

Program Staffing Considerations



- Sponsor & Administrative Responsibilities
 - We serve both roles
 - Capture appropriate Administrative fee (5%-20%)
- How will you find projects?
 - We have two options
 - Open Solicitation Grant Program
 - Closed Internal project development
- What expertise do you have vs. want
 - Started with a single Coordinator
 - Hiring a Wetland Ecologist
 - Identify major tasks
 - Administrative & Reporting / Credit Sales / Project Oversight



Mitigation Process



- Does not change the requirement to: First Avoid, then Minimize and lastly mitigate.
- Follow general hierarchy in the 2008 Federal Rule
 - Mitigation Banking
 Preferred over ILF for –
 no temporal loss.
 - 2. In-Lieu Fee Program
 Preferred over PRM for –
 watershed selection, extensive planning, larger impact.
 - 3. Permittee-Responsible Mitigation
- How will your program interact with Banking?



Helpful Resources



ELI Webinar Series on ILF Mitigation:

http://www.eli.org/events/2013-in-lieu-fee-mitigation-training-webinar-series http://www.eli.org/events/2015-16-in-lieu-fee-mitigation-training-webinar-series

ELI Model Language:

http://www.eli.org/research-report/lieu-fee-mitigation-model-instrument-language-and-resources

Regulatory In-Lieu Fee & Banking Info Tracking System

https://ribits.usace.army.mil/ribits_apex/f?p=107:2

ELI/TNC Watershed Approach Handbook

http://www.eli.org/research-report/watershed-approach-handbook

Watershed Approach to Wetland Functional Assessment

Collaborative project between WI DNR & WI TNC, funded by EPA Wetland Dev. Grant

National In Lieu Fee Mitigation Workshop: July 13-14, 2016

http://www.eli.org/events/lieu-fee-mitigation-workshop

