

Mitigation

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San Francisco District
U.S. Army Corps of Engineers
January 2016



US Army Corps of Engineers
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San Francisco District

Mitigation Sequence

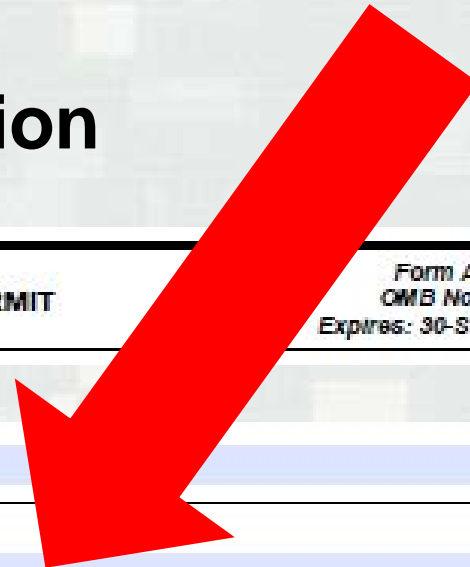
1. Avoidance

2. Minimization

3. Compensatory Mitigation

All three MUST be addressed in your application

Box 23



U.S. ARMY CORPS OF ENGINEERS
APPLICATION FOR DEPARTMENT OF THE ARMY PERMIT
33 CFR 325. The proponent agency is CECW-CO-RL

Form Approved -
OMB No. 0710-0003
Expires: 30-SEPTEMBER-2015

Linear Feet

23. Description of Avoidance, Minimization, and Compensation (see instructions)



Avoidance

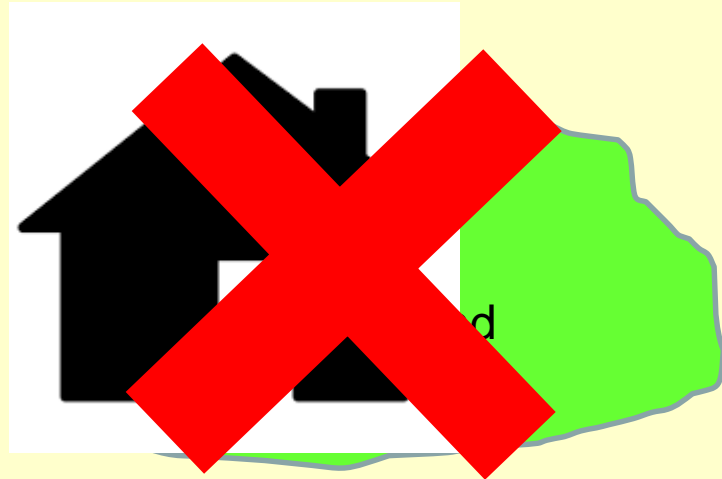
C.F.R. § 230.10

- Least damaging type of dredge or fill
- Location
- Appropriate and practicable alternatives
- Consideration of impact footprint



Avoidance

upland



Minimization

C.F.R. § 230.10



- manage the severity of a project's impact on resources at the selected site
- incorporate appropriate and practicable design
- risk avoidance measures.

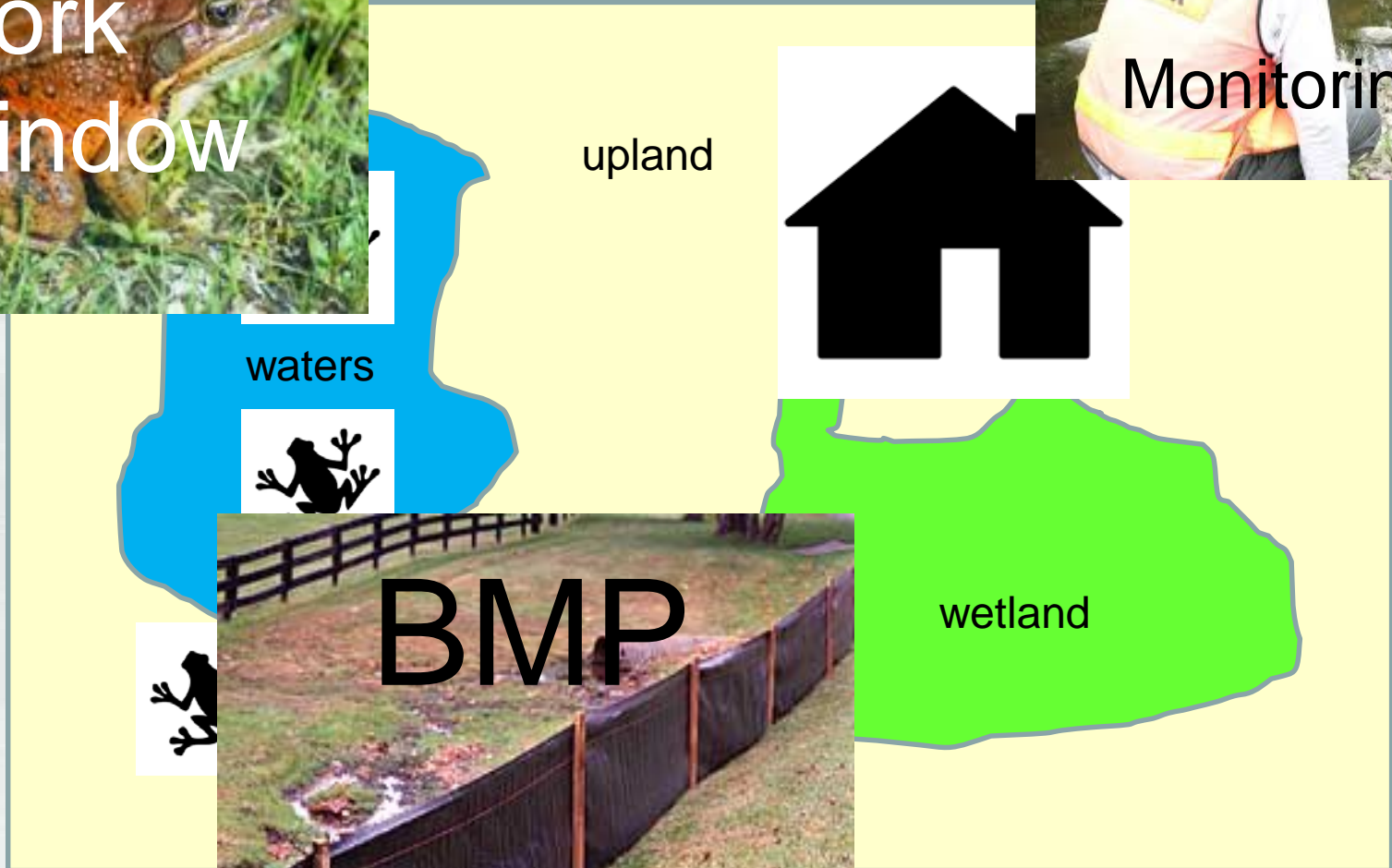


Minimization

Work Window



Monitoring



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Compensatory Mitigation

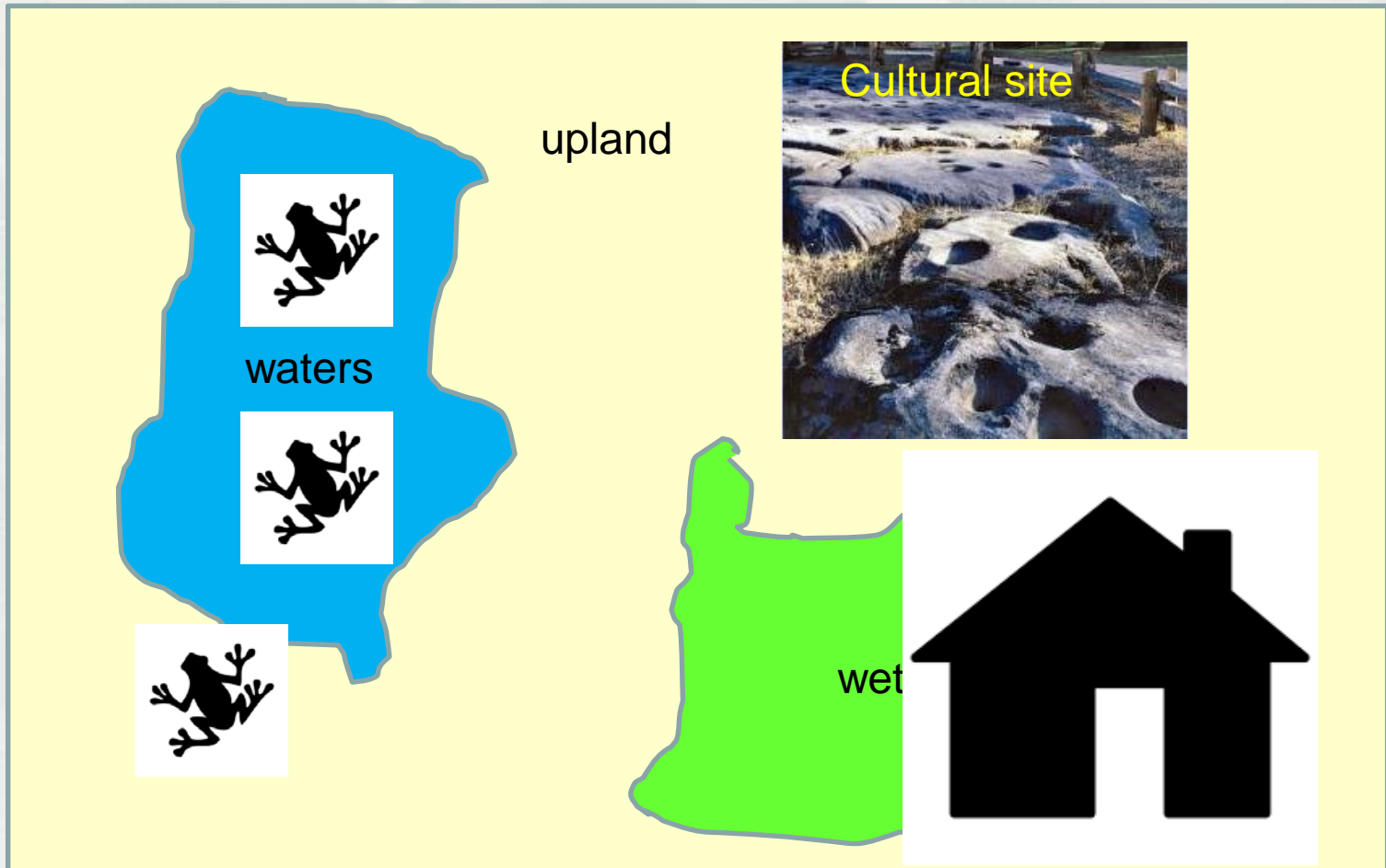
Permit applicants are responsible for proposing **compensatory mitigation** to offset **unavoidable wetland impacts**

WHY?

- To ensure permitted activity is not contrary to the public interest
- Contribute to *national* goal of “no overall net loss” of wetlands



Compensatory Mitigation



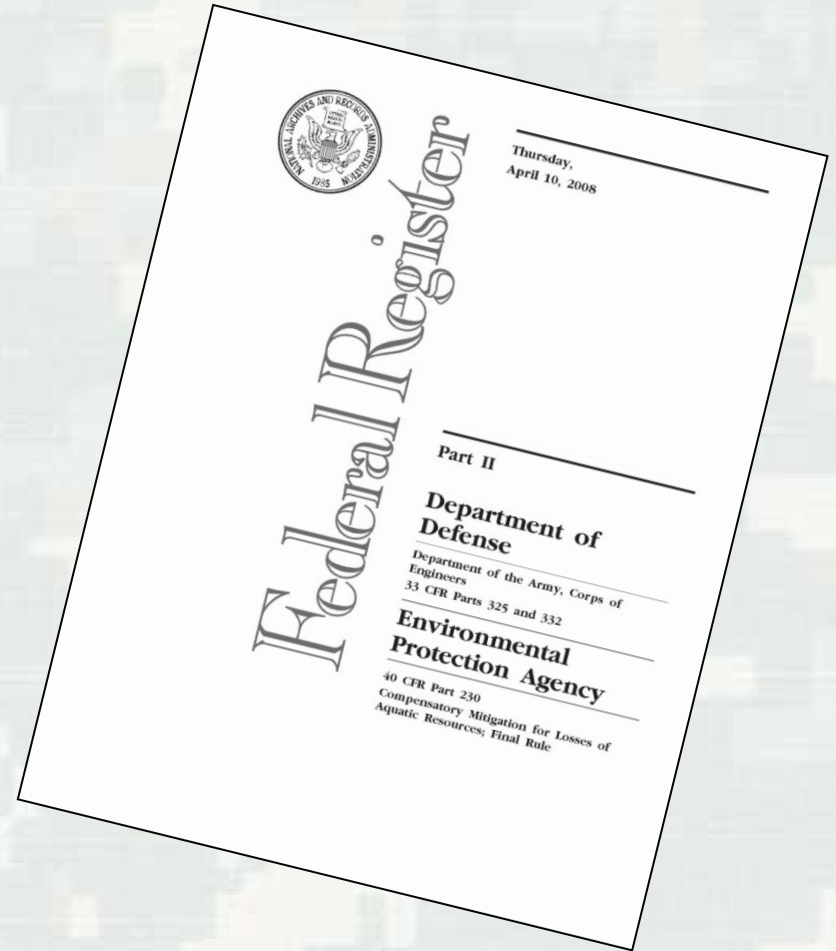
Basics of Compensatory Mitigation

- Appropriate for the type, scope, and degree of project impacts
- Conducted in advance of or concurrent with the activity causing the impact
- Designed to include an offset for temporal loss of wetland function
- Enforceable through permit special conditions



2008 Mitigation Rule Overview

- Applies to compensatory mitigation for USACE permits
- Provides performance standards and requirements for compensatory mitigation
- Includes where and how compensatory mitigation is to be done



Types of Compensatory Mitigation

Establishment (Increases function and area)

“Restoration”

- Re-establishment (Increases function and area)
- Rehabilitation (Increases function only)



Enhancement (Increases function only)

Preservation (May increase function)

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Hierarchy for Compensatory Mitigation

1. Mitigation bank credits
2. In-lieu fee program credits
3. Permittee-responsible mitigation under a watershed approach
4. Permittee-responsible mitigation through on-site and in-kind mitigation
5. Permittee-responsible mitigation through off-site and/or out-of-kind mitigation

(33 CFR 332.3(b))

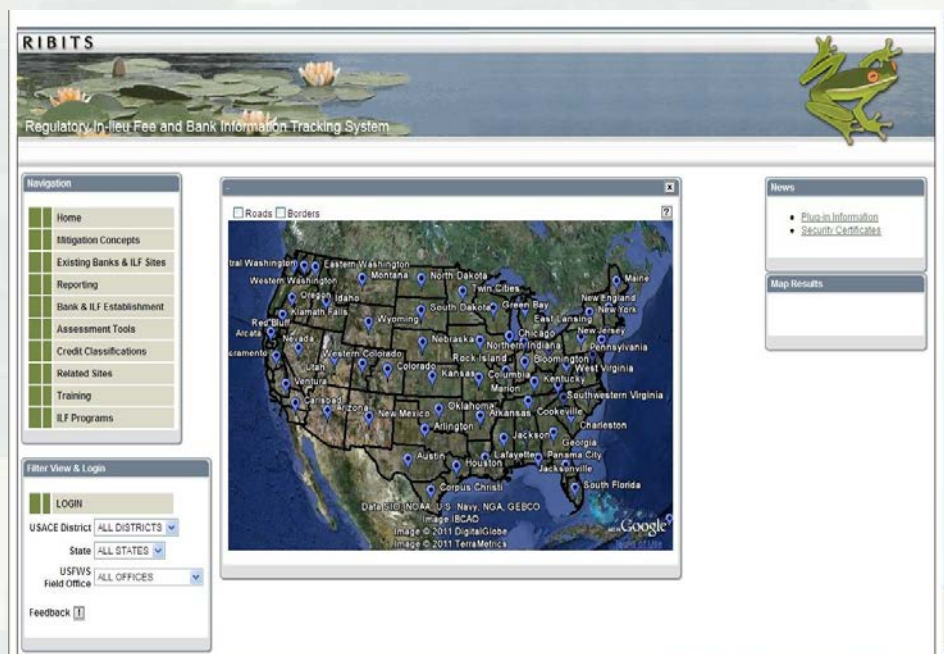


Where to find mitigation banks and in lieu fees?

RIBITS <https://ribits.usace.army.mil/>

Allows online tracking of mitigation banks and in lieu fees including:

- Contacts
- Service areas
- Available credits
- Ledgers
- Reporting
- Bank & ILF documents
- Policy documents



What is a Watershed Approach?

“Maintain and improve the **quality and quantity of aquatic resources** within watersheds through **strategic selection** of compensatory mitigation sites”

Where to find more information? Local non-profits, local land trusts, NRCS, Resource Conservation Districts, local and state agencies, etc.



Requirements for Application with Compensatory Mitigation

If using mitigation bank or in-lieu fee program

- Baseline information of wetland at impact site
- Proposed purchase of credits
- Statement of credit availability

Permittee Responsible

- Explanation of why mitigation bank/in-lieu fee is not available
- Mitigation and Monitoring Plan
- Management Plans
- Financial Assurance



USACE Procedures and Guidance for Evaluating Compensatory Mitigation

SOUTH PACIFIC DIVISION

US Army Corps of Engineers

Search South Pacific Division

HOME > MISSIONS > REGULATORY > PUBLIC NOTICES AND REFERENCES

References

QMS Processes

These are internal process documents which will affect how permit applicants and their representatives will work with SPD subordinate districts. These documents are for "Information Only." The controlled versions reside on the SPD QMS SharePoint Portal. Please verify that the version of any document is the current one prior to proceeding.

- 12501-SPD Standard Operating Procedure for Determination of Mitigation Ratios
- 12502-SPD Regulatory Program Emergency Procedures
- 12503-SPD Regulatory Administrative Appeal Process
- 12504-SPD Essential Fish Habitat Procedures
- 12505-SPD Uniform Performance Standards for Compensatory Mitigation Requirements
- 12509-SPD Regulatory Program SOP for Preparing and Coordinating EISs
- 12510-SPD Wetlands Determination and Delineation Procedures for Irrigated Lands

Public Notices

Under the Corps' Regulatory Program, a public notice is the primary method for advising all interested parties of a proposed activity for which a permit is sought. Public notices are also published to inform the public about new or proposed regulations, policies, guidance or permit procedures.

Public Notices published by the South Pacific Division (SPD) under the Regulatory Program are posted on this page. SPD public notices are primarily published to inform the public about new or proposed guidance, templates, procedures, and regional general permits, which are applicable to more than one of SPD's subordinate districts. Once a public notice is available on-line, notification of the SPD Public Notice is sent to individuals on the mailing lists of the appropriate districts by each of the affected districts.

Public Notices

1 2 3 4

SPN-2009-00443 - 1/7/2016: SUBJECT: Notice of the Final Environmental Impact Statement (Final EIS) for the Panoche Valley Solar Project, San Benito County, California. The Final EIS for the Panoche Valley Solar project, located in eastern San Benito County, California, is available for review and comment. The Notice of Availability of the Final EIS was published in the Federal Register on December 31, 2015. This notice is to inform interested parties of the Final EIS and to solicit comments. This notice may also be viewed at the Corps web site at www.spk.usace.army.mil/Media/RegulatoryPublicNotices.aspx.
Expiration date: 2/1/2016

ATTACHMENTS: Final Environmental Impact Statement | Federal Register Notice

Updated BEI and CE Templates - 9/28/2015: The U.S. Army Corps of Engineers' (USACE) South Pacific Division, including its Sacramento, San Francisco, and Los Angeles Districts, along with the U.S. Fish and Wildlife Service (USFWS), the California Department of Fish and Wildlife (CDFW), the California Natural

Mitigation
Ratios
Uniform
Performance
Standards
Mitigation and
Monitoring
Plan
Guidelines

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Mitigation Ratios

“No net loss” of area and functions

Standard Operating Procedure for Determination of Mitigation Ratios

<http://www.spd.usace.army.mil/Portals/13/docs/regulatory/qmsref/ratio/12501.pdf>

Some things to consider:

- Temporal loss
- In kind/out of kind
- Type of wetlands
- Available hydrology
- Maintenance needs
- Time until wetlands function
- Irrigation or other artificial hydrology
- Engineered structures



Harris Quarry Mitigation

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Mitigation Plan Requirements

- Individual permits (Standard Permits and Letters of Permission)
 - Final mitigation plan must be approved prior to permit issuance

- Minor permits (General Permits, Nationwide Permits)
 - Permit conditions may supplement mitigation plan
 - Final mitigation plan must be approved prior to initiating work

Regional Compensatory Mitigation and Monitoring Guidelines

<http://www.spd.usace.army.mil/Portals/13/docs/regulatory/mitigation/MitMon.pdf>




Mitigation Plan Components

1. Objectives
2. Site Selection
3. Site Protection Instrument
4. Baseline Information
5. Determination of Credits
6. Mitigation Work Plan
7. Maintenance Plan
8. Performance Standards
9. Monitoring Requirements
10. Long-term Management Plan
11. Adaptive Management Plan
12. Financial Assurances

STH 83 Corridor Wetland Mitigation Compensation Site Plan
January 2012

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Uniform Performance Standards for Compensatory Mitigation Requirements

- increase consistency between USACE districts
- incorporate current scientific understanding of mitigation concepts
- expansion of performance standards beyond the traditionally flora-based standards

<http://www.spd.usace.army.mil/Portals/13/docs/regulatory/qmsref/ups/12505.pdf>

Physical

Hydrologic

Reference sites

Faunal-Diversity Index

Flora

Water quality (ecological)

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Summary

- First **Avoid**, then **Minimize**, before **Compensatory** Mitigation
- Compensatory Mitigation follows the hierarchy in the 2008 Mitigation Rule
- USACE Guidance on Mitigation and Management Plans, Mitigation Ratios, and Uniform Performance Standards on the South Pacific Division Regulatory website



Questions



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