

Wrap-Up and Synthesis

Mitigation Stakeholder Forum

May 10-11, 2006

Washington, DC

Kudos:

- Participants
- Environmental Law Institute
- George Washington University
- Co-sponsors
 - FHWA
 - NOAA – NMFS
 - USFWS

Major Themes: Proposed Rule

- Positive feedback:
 - Affirming “sequence”, Raising standards, increasing accountability, ensuring efficiency and improving success rates
- Constructive criticism:
 - Ensuring “equivalency”, role of state programs, scale of watershed/service area, should vs. shall, definitions, much more...

Major Themes: Proposed Rule

- Third-party compensation:
 - Timelines
 - Passionate response to proposed phase-out of traditional ILF
 - Right thing to do in order to ensure equivalent effective standards
 - Consider retaining ILF but implement significant reforms such as:
 - Hard preference for “in ground” compensation
 - Set ILF fee schedules significantly higher than bank credit prices
 - Require ILFs to incorporate an RFP process that incorporates private-sector efficiencies

Submit Public Comments

- New deadline: June 30, 2006
- Instructions are in March 28, 2006 Federal Register Notice
- Recommended method of submission:
 - www.Regulations.gov (Public Docket)
 - Electronic submission
 - View all other comment submissions

Watershed Approach

- General endorsement of Watershed Approach
- Concern regarding practical implementation
 - Availability/quality/nature of plans
 - Influencing existing planning
 - Encouraging planning by other agencies (e.g., NRCS)
- Approach without a plan
 - Quality/depth of assessment necessary
 - Minimum information requirements? Or not?
- Case by case vs. holistic

Tracking/Compliance

- Partner with states on database issues to ensure inter-operability, datasharing, public access
- Leveraging geospatial data (e.g. JDs)
- Compensatory mitigation compliance concerns – GAO
- Constructive response and actions underway

Current/Future Issues

- # of Banks increasing, ILF decreasing
- Regional variations in use
- Problems with creation
- Need more consideration of soil metrics
- Studies that look at:
 - impacts vs compensation sites
 - type of mitigation provider (motivation)
 - Soil organic matter, bulk density
- Better information dissemination (and training) and better management/use of grey lit.