

Guidelines to Evaluate Mitigation Bank Credit Purchases in Georgia

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Objective?

- This presentation will offer a brief overview of the current guidance for selecting a mitigation bank that would adequately compensate for aquatic resource losses, as authorized by a Department of the Army (DA) permit in accordance with section 404 of the Clean Water Act (CWA) and/or sections 9 or 10 of the Rivers and Harbors Act of 1899.



The Rule

- The provisions provided herein have been developed to be in accordance with the requirements in The Rule, dated April 10, 2008 ((33 CFR Part 332) and (40 CFR Part 230)).

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Purpose

- Ensure that selection of banks will adequately compensate for aquatic resource losses
- Help RD PM's to evaluate whether proposed credits are appropriate

* It is the applicant/banker's responsibility to provide ALL necessary information documenting deviations from the guidelines. Without the proper documentation, banks may not be "grandfathered" under this clause.



Assumptions

The recommendations presented herein do not:

- Alter existing regulations or circumstances under which compensatory mitigation may be required;
- Address in-lieu-fee or site specific mitigation requirements; or
- Alter provisions provided in the CWA or RHA.



Watershed Approach

- The level of information and analysis needed to support a watershed approach shall be commensurate with the scope and scale of the proposed impacts requiring a DA permit, as well as the functional losses to result.

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Watershed Approach

- **Baseline Ecological Conditions**
 - ▶ What are/were the plants, soils, hydrology at the permitted project site?
- **Landscape position**
 - ▶ Where is the bank in proximity to my project?
- **Aquatic resource functions**
 - ▶ Do bank functions match functions lost as a result of my project?



Watershed Approach

- More on Landscape Position:
- Proximity of the impact site and the proposed bank site is recognized as a factor in the Watershed Approach
- The USACE will reduce the credit needs by 10% when the credits deemed appropriate are from the same 12-digit HUC as the impact.



Fact Sheets

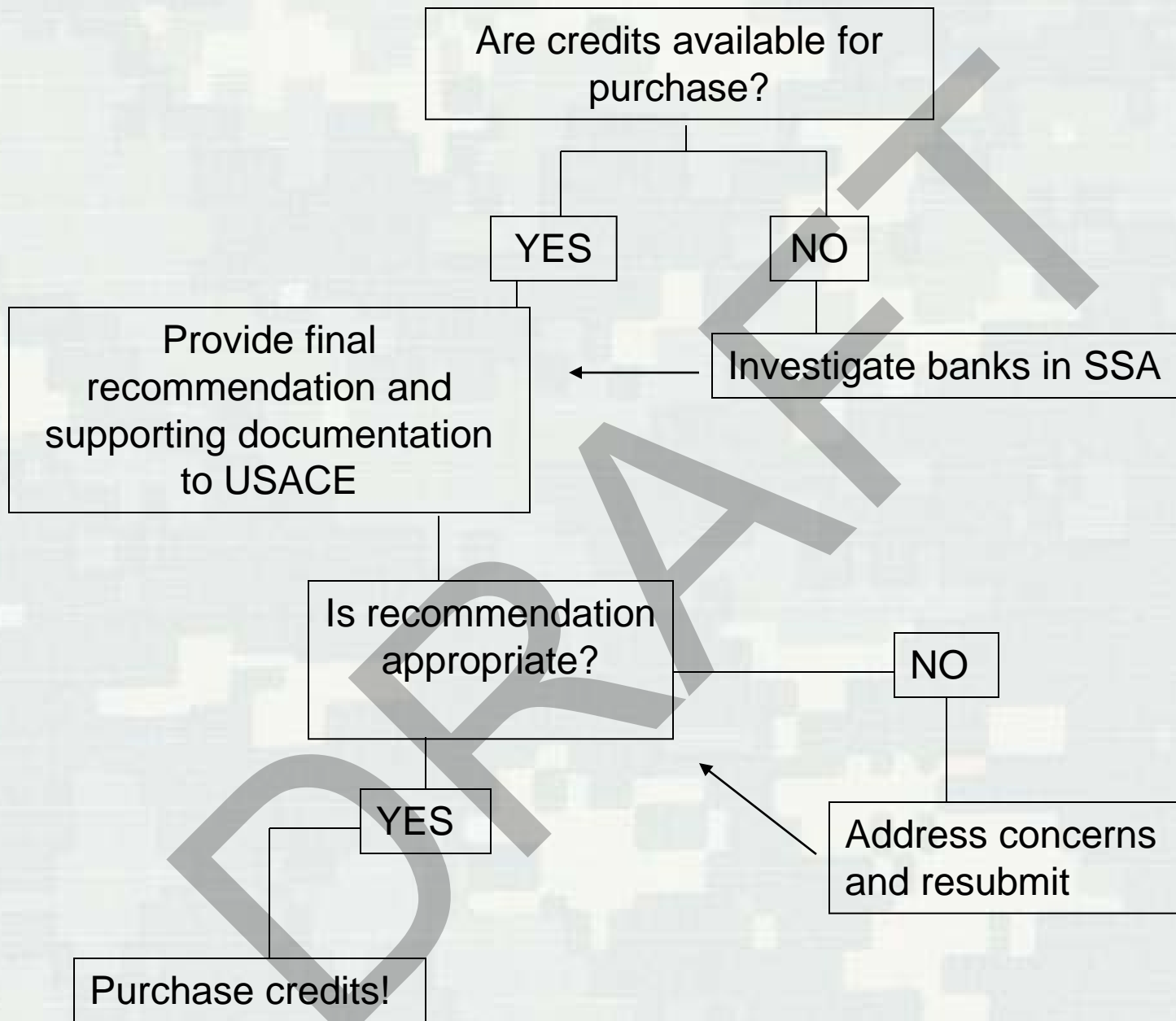
- To aid applicants in their selection of an appropriate credit source, a fact sheet has been solicited from all approved banks. Information includes, for example, service areas, HUCs, landscape position, and habitat categories.
- Fact sheets can be found on the RIBITS site.



Procedure for Choosing the Correct Bank

- Primary Service Area
 - ▶ Identify
 - PSA and 8-digit HUC of impact area
 - Functional losses and # of credits needed
 - Names/locations of banks in PSA by 8-digit HUC
 - Do appropriate credits exist in PSA
 - Are those credits available for purchase
 - ▷ Document this communication with bank POC





Source Selection Approval

- If the choice of a particular mitigation bank does not adequately compensate for the aquatic resources to be lost, the PM will provide comments to the applicant, identifying the concerns and requesting additional information to support recommendation(s).
- If for any reason a modification to the originally approved source or amount of the required mitigation credits is proposed, another credit source approval review will be necessary.
- Prior to the purchase of credits, the USACE must provide a final written concurrence stating that the submitted proposal is acceptable.



Fact or Fiction?

- PSA credits must be considered 1st
- You are responsible for researching availability of credits
- No bank outside of PSA or SSA can be used unless approved by IRT

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- **Case Facts:** As authorized in a Nationwide Permit (NWP) and in accordance with the Savannah District's Mitigation Standard Operating Procedures (SOP), the project (USACE File Number) would need to obtain 1.5 wetland credits and 50 stream credits. This project is located in the Upper Blue River Basin Primary Service Area (PSA) and in the 30267001 8-digit Hydrologic Unit Code (HUC). There are 5 banks located in the PSA. Additional information and analyses are provided in the following matrix:



Resource Analysis

IMPACT SITE DATA			
Resource Category	Service Area; HUC	Distance to Impact Site	Credits Needed
Freshwater Wetland	PSA; 30267001	--	1.5
Stream	PSA; 30267001	--	50



			Sufficient Credits Available	Recommended for Use
MITIGATION BANK DATA				
Alpha Mitigation Bank				
Stream	PSA; 30267001	4 miles	Yes	
Bravo Mitigation Bank				
Stream	PSA; 30267001	2 miles	Yes	X
Freshwater Wetland	PSA; 30267001	2 miles	Yes	X
Charlie Mitigation Bank				
Stream	PSA; 30267002	10 miles	Unknown	
Freshwater Wetland	PSA; 30267002	10 miles	Unknown	
Delta Mitigation Bank				
Freshwater Wetland	PSA; 30267002	15 miles	Unknown	
Echo Mitigation Bank				
Freshwater Wetland	PSA; 30267002	50 miles	Unknown	
Stream	PSA; 30267002	50 miles	Unknown	



- **Applicant Recommendations:** Proposes to purchase all credits from the Bravo Mitigation Bank. Banker POC indicated on 30 Sep 09 that sufficient credits were available to cover project needs.
- **USACE Determination:** Concur with Applicant proposal.

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Example 2

- **Case Facts:** As authorized in a NWP and in accordance with the SOP, the project (USACE File Number) would need to obtain 1.4 marine wetland credits. This project is located in the Lower Purple River Basin PSA and in the 80200456 8-digit HUC. There are 2 banks located in the PSA. Additional information and analyses are provided in the following matrix:



Resource Analysis

IMPACT SITE DATA			
Resource Category	Service Area; HUC	Distance to Impact Site	Credits Needed
Marine Wetland	PSA; 80200456	--	1.4



			Sufficient Credits Available	Recommended for Use
MITIGATION BANK DATA				
X-Ray Mitigation Bank				
Fresh water Wetland	PSA; 30267005	4 miles	Yes	X
Holiday Mitigation Bank				
Estuarine Wetland	PSA; 30267005	20 miles	Yes	

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- **Applicant Recommendations:** Proposes to purchase all credits from the X-Ray Mitigation Bank. Banker POC indicated on 13 Sep 09 that sufficient credits were available to cover applicant needs. These credits are available and closest to the impact site.
- **USACE Determination:** Do not concur with Applicant proposal. The applicant is not allowed to purchase freshwater or estuarine wetland credits to replace marine wetland impacts. Determination needs to consider resource category/functional changes and location considerations. In this case, mitigation may include use of permittee responsible compensation. The applicant will need to provide a revised analysis.



Example 3

- **Case Facts:** As authorized in a NWP and in accordance with the SOP, the project (*USACE File Number*) would need to obtain 1.4 freshwater wetland credits. This project is located within the Blue River Basin (BRB) PSA and in the 33333333 8-digit HUC. There are no banks located in the PSA or SSA. However, there is 1 bank located in the adjacent PSA (i.e., Red River Basin (RRB)). Additional information and analyses are provided in the following matrix:



Resource Analysis

IMPACT SITE DATA			
Resource Category	Service Area; HUC	Distance to Impact Site	Credits Needed
Freshwater Wetland	BRB PSA; 33333333	--	1.4



			Sufficient Credits Available	Recommended for Use
MITIGATION BANK DATA				
Zulu Mitigation Bank				
Fresh water Wetland	RRB PSA; 22222222	14 miles	Yes	X

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- Applicant Recommendations: Proposes to purchase all credits from Zulu Mitigation Bank, as there are no credits available in the BRB PSA and/or SSA.
- USACE Determination: Coordinate Applicant's proposal with the full IRT to determine appropriateness. If determined appropriate by the IRT, concur with Applicant proposal. If determined inappropriate by the IRT, do not concur with Applicant proposal. In the event that USACE/IRT does not concur, the applicant would not be allowed to purchase freshwater wetland credits in the adjacent PSA; rather, mitigation may include use of In-Lieu Fee or permittee responsible compensation. The applicant would need to provide a revised analysis.



Any Questions?



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