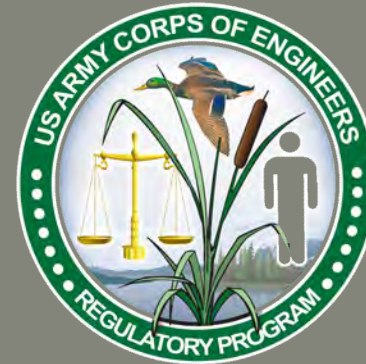


MITIGATION OVERSIGHT AND COMPLIANCE: USACE REGULATORY PERSPECTIVE



Kristi Hall, USACE Headquarters Regulatory Science
Detailer and USACE Regulatory Project Manager
Vicksburg District

ASWM, "Advanced Topics Webinar Series"

24 October 2019

"The views, opinions and findings contained in this report are those of the author(s) and should not be construed as an official Department of the Army position, policy or decision, unless so designated by other official documentation."

Oversight and Compliance



**US Army Corps
of Engineers**



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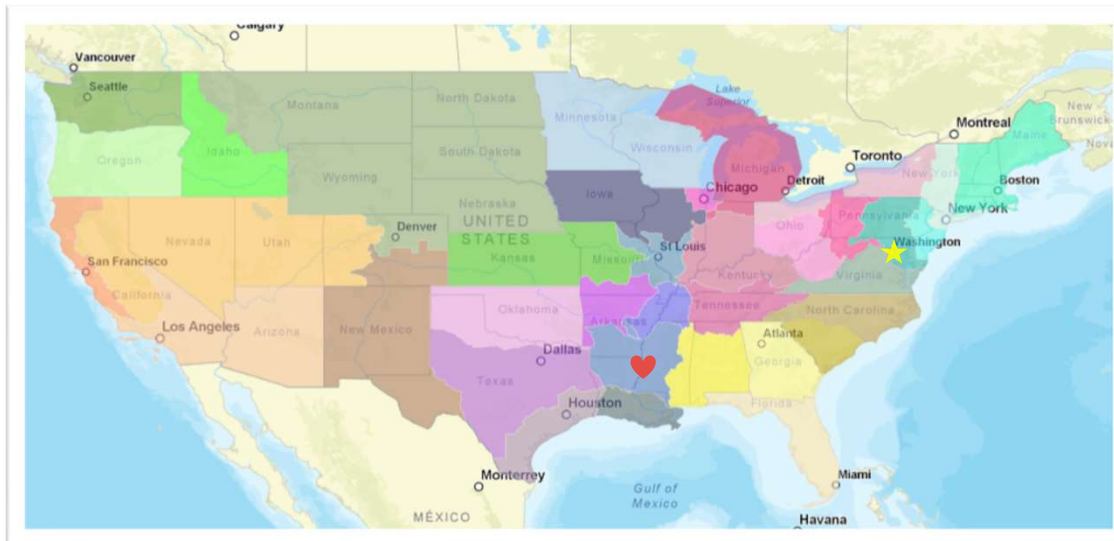
U.S. ARMY

INTRODUCTION



Kristi Hall, PWS

- Currently, USACE HQ Regulatory Science Detailee
- Normally, Regulatory Project Manager in Vicksburg District, USACE
- Vicksburg District Compensatory Mitigation Lead
- Graduated from Virginia Tech and Colorado State University.



OUTLINE

- What is Oversight and Compliance?
- What is the Corps' Process?
- A few examples on “getting right”... what is “right” anyway?

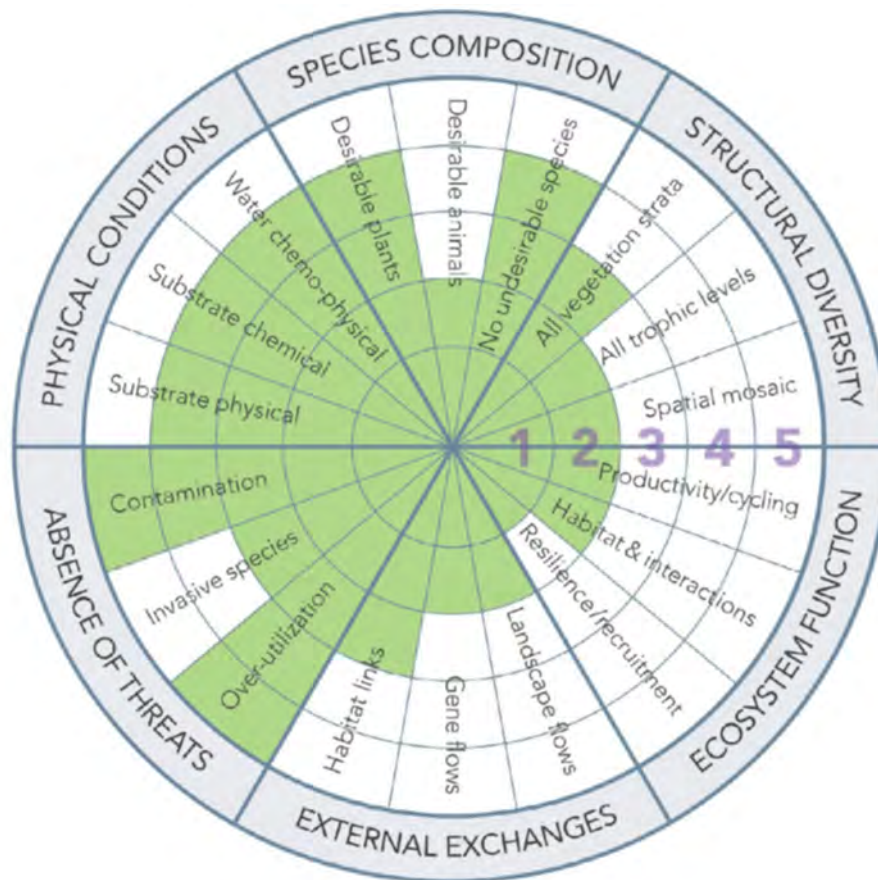


TWO PRIMARY CONSIDERATIONS

- We are all in this together and we all want success.
- Sometimes nature doesn't do what you expect it to do, and sometimes that's ok (Suding et al 2011, Wallington et al 2005, Prach et al 2019).



RECOVERY WHEEL



From: McDonald T, Gann GD, Jonson J, and Dixon KW (2016) International standards for the practice of ecological restoration – including principles and key concepts. Society for Ecological Restoration, Washington, D.C.



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WHAT IS OVERSIGHT?

Oversight- Being active in ensuring the project is on track for success.

- Construction
- Site inspections
- Credit releases
- Accounting/Reporting
- Maintaining RIBITS ledger
- Permittee-Responsible Mitigation
 - GIS/Master List/Layers
- Adaptive management
- Modifications to Instrument
- Bank or In-Lieu Fee Program site closure
- Investigating Non-compliance



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WHAT IS COMPLIANCE?

“Authorization to sell credits to satisfy compensatory mitigation requirements in DA permits is **contingent on compliance with all of the terms of the instrument.**” - 33 CFR 332.8(I)(2)



WHAT IS COMPLIANCE?

Compliance- Is the project compliant with the instrument or conditions of permit?

- Funding endowment
- Furnishing short-term financial assurances
- Timely and complete monitoring reports
- Appropriate Program Accounting
- Remediate habitat that does not meet performance standards
- Maintain/manage property per management plan(s)



WHAT IS THE CORPS' PROCESS?

Issue Identified with Effective Oversight

PM Reaches Out to Mitigation Provider

- Possible site visit to discuss further

Discuss Solutions

- Sponsor/ Agent, IRT, OC, Chiefs, Mitigation SME, Sister Districts

Sponsor/ Permittee Generates a "Get Right" Plan

- Receive appropriate approval

Execute the "Get Right" Plan

- Is modification required? Adaptive Management? Remedial Actions? Financial Assurances?

WHAT DOES THE SITE WANT TO BE?

- Bottomland hardwoods are the primary target wetland type.
- Monitoring reports were showing that a site was failing to meet it's hardwood targets.

(Actual- 35:65 hardwood: softwood ratio,
Performance Standard- 60:40)



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**IF IT LOOKS LIKE A CYPRESS SWAMP,
HAS HYDROLOGY LIKE A CYPRESS SWAMP,
THEN MAYBE...**



LANDOWNER ISSUES

- 1,500+ acre mitigation bank
- Overall the project is doing very well, except ~ 7.9 acres of “farming junk”.



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ADJUSTED TOTAL CREDITS

At the request of the Sponsor, the instrument was modified to omit 7.9 acres from “credit generating areas” and allow this portion of the bank to be used as storage for nearby farmer.



PERMITTEE RESPONSIBLE MITIGATION GONE AWRY



Channel Incision
(Failed Grade Control Structure)

Mass Wasting of Streambanks



OPTIONS

Continue to expend time and resources remediating the site? OR Look for other alternative compensation to meet the obligations specified in a permit or instrument?

Should I stay or should I go?



Source: YouTube, The Clash "Should I Stay or Should I Go?"



OPTIONS

Continue to expend time and resources remediating the site? OR Look for other alternative compensation to meet the obligations specified in a permit or instrument?

In order to move forward in timely manner, permittee chose to purchase compensatory mitigation from an approved In-Lieu Fee Program. The permit had to be modified for new conditions.

Mitigation responsibility was transferred to ILF provider and project was constructed in timely manner.

Initial mitigation site also had to be stabilized.



SUMMARY

- Don't Panic
- Communicate
- KIS (Keep It Simple)
- Modifications can be OK if the site is “trending towards success”.
 - Know what “success” looks like.
- Document your decisions.



CONTACT INFORMATION

**KRISTI HALL
VICKSBURG DISTRICT
US ARMY CORPS OF ENGINEERS**

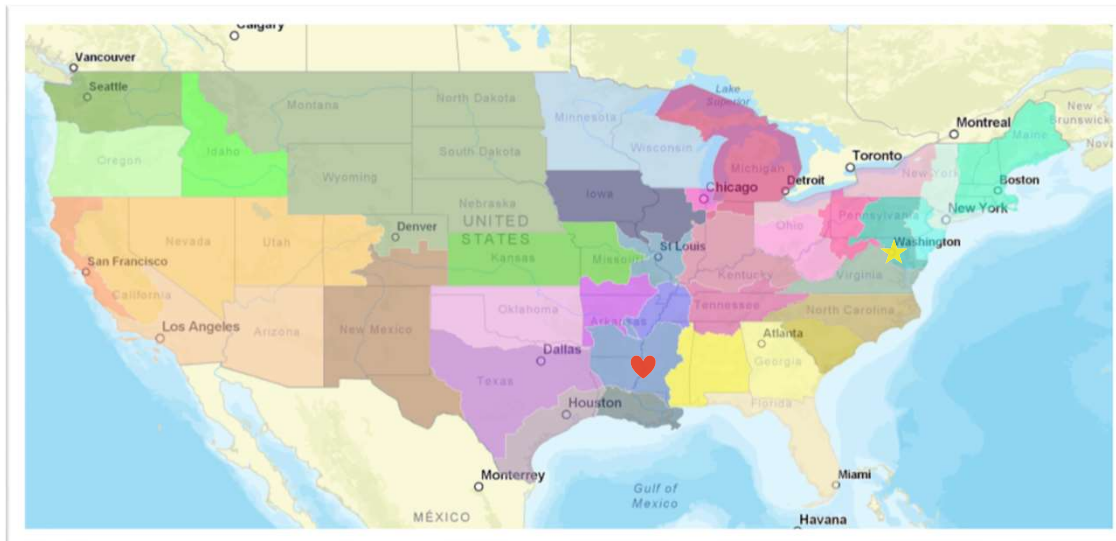
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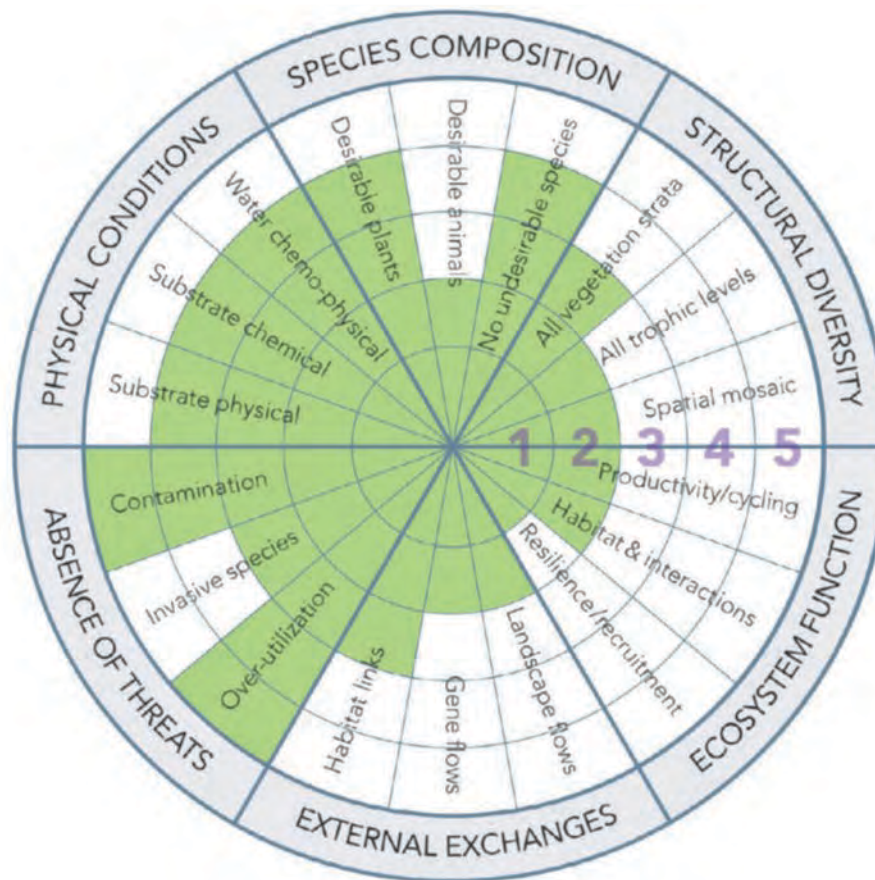


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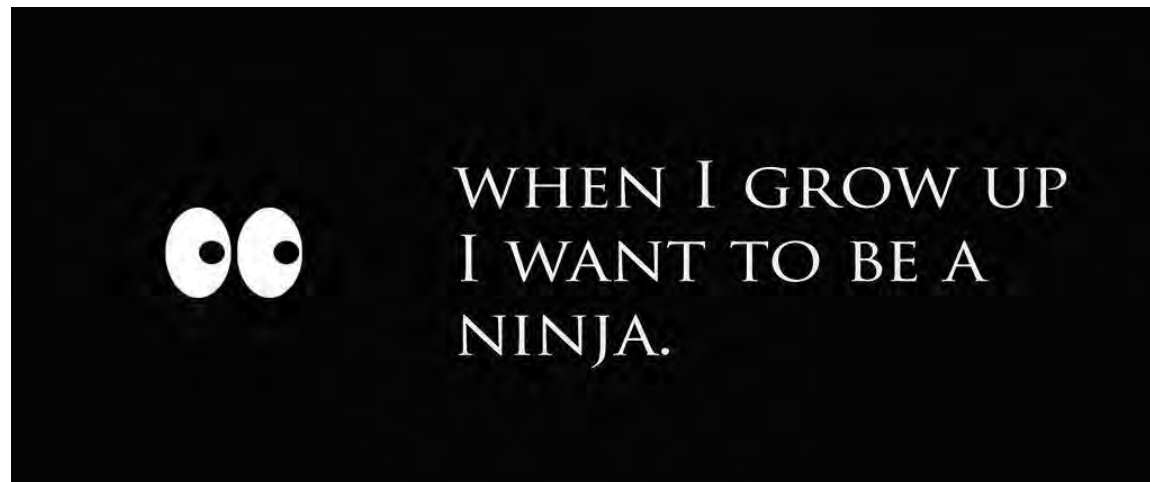
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