

An aerial photograph of a long, narrow breakwater made of dark rocks extending into the ocean. The water is a deep blue, and white waves are breaking against the breakwater. The sky is a clear, light blue.

Compensatory Mitigation and In-Lieu Fee Sponsorship: Conservation Opportunity

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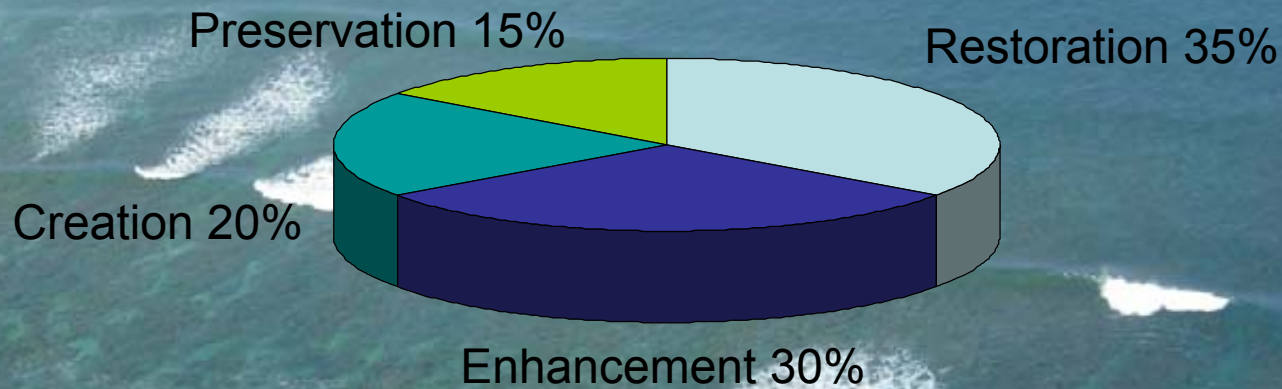
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Compensatory Mitigation

- Basis for “no net loss” of wetlands (coral reefs)
- Clean Water Act 404 requires permit to discharge dredged or fill material into waters of U.S.
- Impacts must be:
 - Avoided
 - Minimized
 - **Compensatory mitigation** required for unavoidable impacts

Compensatory Mitigation Methods



Lost
functions/services at
impact site
+ uncertainty
+ temporal loss

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Gained
functions/services at
mitigation site

KILO WHARF, APRA HARBOR



Kilo Wharf impacts to coral reefs:
4.5 acres direct
17 acres indirect



A wide-angle landscape photograph of Cetti Bay. The foreground is dominated by tall, green grasses and some leafy plants. A person wearing a white shirt and a cap is walking through the grass. In the middle ground, there are rolling hills with varying vegetation, some appearing eroded and brownish. The background shows a blue bay and a clear blue sky with some clouds.

MITIGATION

Coral Reef
Restoration via
Erosion control –
Reforestation of
500 acres in
Cetti Bay

An aerial photograph of a rocky coastline. The water is a deep blue-green color, with white foam from waves crashing against a long, low stone pier that extends from the shore into the sea. The pier is made of dark, irregularly shaped rocks. The sky is not visible, and the overall scene is a natural coastal landscape.

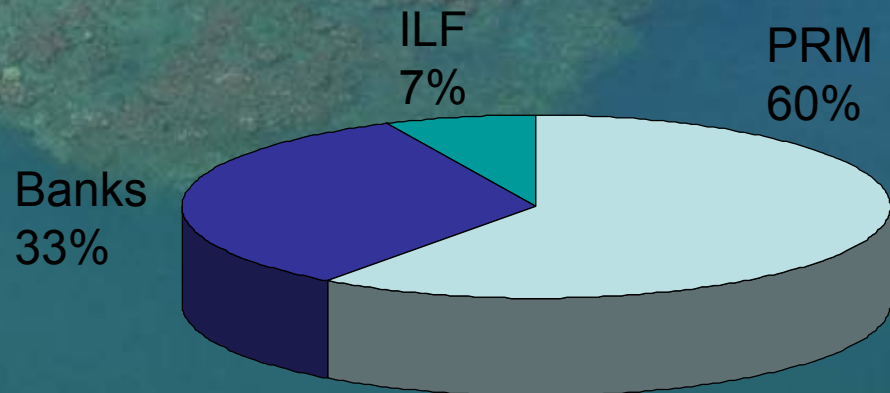
Q: Is Compensatory Mitigation
Successful?

A: Too often not

- 2001 National Research Council Report
- 2005 FWS-EPA report on coral mitigation
- 2008 COE-EPA Mitigation Rule

Who provides mitigation?

- Permittee –Responsible mitigation (PRM)
- Third Party Mitigation
 - Mitigation Bank
 - In-lieu Fee (ILF)



Third Party Mitigation

Mitigation Banks:

- Initiated before impacts
- Credits given after project is successful
- Sponsored by entrepreneurs
- >450 banks

In-Lieu Fee Programs:

- Initiated after impacts
- Sponsored by Gov't & Non-profits
- >50 programs

Mitigation Preference

- Credits from mitigation bank
- Credits from in-lieu fee program
- PRM using watershed approach
- PRM on-site
- PRM off-site

In Lieu Fee Sponsorship: 4 steps

- Prospectus
- Compensation Planning Framework
- Instrument
- Mitigation Plan

ILF Prospectus

Overview of ILF program and basis for public comment

- Objectives of ILF
- Service area
- Land ownership and long term management strategy
- Qualifications of sponsor
- Compensation planning framework
- ILF program account

Compensation Planning Framework

Strategy to select and implement aquatic resource restoration/enhancement/preservation projects

- Delineation of service area
- Threats to aquatic resources
- Analysis of current & historic resource conditions
- Prioritization strategy
- Long term protection & management strategy

ILF Instrument

Authorization to provide credits to be used as mitigation for ACOE permits

- Compensation Planning Framework
- Method for determining advance credits, future credits, and credit fees
- Financial program & account

Mitigation Plans

1. Project objectives
2. Site selection factors
3. Site protection
4. Baseline info @ impact & mitigation site
5. Credit methodology
6. Work plan
7. Maintenance plan
8. Performance standards
9. Monitoring requirements
10. Long term management plan
11. Adaptive mgmt Plan
12. Financial assurances

Apra Harbor
Guam

Commercial
Port

Sasa Bay
Preserve

CVN

Inner
Apra
Harbor

