

A scenic landscape featuring a river or stream winding through a lush green area. The foreground is dominated by tall, vibrant green grasses. In the middle ground, a calm body of water reflects the surrounding greenery and the overcast sky. The background consists of a dense line of trees and a distant, hazy horizon. The overall atmosphere is peaceful and natural.

What should a federal guidance document say to encourage placement of compensatory mitigation where it would have the greatest benefit and probability for long-term sustainability in a district with extensive watershed planning?

# **Guidance on implementing compensatory mitigation in the watershed context....**

## **1. Guidance for the Corps regulatory program:**

**a. The Corps regulatory program can be a tool for implementing the watershed plan/CCMP**

**b. Publish a public notice to inform the regulated public of the CCMP and watershed approach to regulatory actions**

**c. Maximize avoidance and minimization of impacts to waters/wetlands and upland buffers deemed critical by the CCMP**

**d. Use incentives to encourage conformance with the watershed approach/CCMP:**

**(1) Authorize regional general permits for expedited processing of projects that are in conformance with the watershed approach/CCMP**

**(2) Provide for expedited approval of compensatory mitigation that is in conformance with the watershed approach/CCMP. For example, bank sponsors would be advised to site and design bank sites in accordance with the watershed approach/CCMP**

e. **Disincentives:**

**(1) Require individual permit reviews for projects not in conformance with CCMP. Special condition permits to protect the resource. Denial of 10/404 permits may be appropriate**

**(2) Consider rejecting, or crediting at a lower value, compensatory mitigation that does not conform with the watershed approach/CCMP**

**f. Legal challenges:**

**Involving stakeholders**

**Public noticing**

**Developing GPs**

**Making decisions consistent with the plan**

**Etc.**

**Demonstrate that the agency's actions  
are not "arbitrary and capricious" and  
should be given deference by the courts**

# **Authorization of Incidental Take Under the Endangered Species Act**

## **GUIDANCE...**

- 1. Require siting of compensatory mitigation in accordance with wetland restoration priorities identified by the CCMP**
- 2. Although in-kind compensation is typically preferred, include flexibility to incorporate out-of-kind compensation based on priorities identified by the CCMP**
- 3. While CCMP is used to identify compensation priorities for site and kind, each applicant remains responsible for design and planning of their compensatory mitigation**