

Pebble Project

Meeting with U.S. Army Corps of Engineers

Discussion topic: Compensatory mitigation requirements

Questions:

1. **What is the status of the ROD? Is the Corps still anticipating a ROD on September 24th?**
 - a. **What is still needed by the Corps before they can issue a ROD?**
 - i. **Complete Compensatory Mitigation plan from the applicant**
 - ii. **401 Certification**
 - iii. **Programmatic Agreement signed**
 - iv. **ESA consultation (biggest outstanding issue at the moment)**
 1. **NMFS has not yet determined yet they have a complete information**
 - a. **Once this is determined, they have 135 days to complete**
2. What is the Corps anticipating for compensatory mitigation?
 - a. Dave: the applicant owes us a plan. We have told them verbally that mitigation must be in-kind and in-watershed. We are open to accepting preservation greater than 1:1 ratio.
 - b. Has the Corps determined that the applicant's draft compensatory mitigation plan is adequate?
 - i. If not, what are its deficiencies?
 1. Lacks in-kind compensatory mitigation.
 2. Biggest hurdle for applicant to overcome is the impacts in the Kaktuli watershed from development of the mine site. For impacts in other aspects of the project, there are broader options available to the applicant, such as water treatment facility improvements, out-of-kind mitigation banks
 - c. If the Corps is anticipating preservation on state lands, does the Corps plan to re-engage on the State's previously submitted prospectus for an In-Leu Fee program (ILF)?
 - i. An ILF would take time to establish. Would the submitted prospectus be adequate for the Corps to consider for purposes of issuing the ROD?
 - ii. Sheila: Direct and indirect impacts at mine site (Kaktuli watershed) is 2,825 acres of wetlands 132 acres of open water and 128 miles of streams.
 1. If the impacts will be mitigated through preservation the ratio would need to be 10:1 to 20:1.
 2. The Corps believes the threshold of threat could be met in the Kaktuli watershed.
 3. Preservation is the only way for the applicant to meet mitigation requirements for significant degradation in the Kaktuli watershed.
 4. Big difference here (compared to previous projects/approvals) is the determination of significant degradation in the Kaktuli watershed, which must be mitigated.
3. Would a mix of compensatory mitigation, including Permittee-Responsible Mitigation, be acceptable to the Corps?
 - a. What should that mix include, and in what proportions?

4. What does the Corps need from the State with regards to determining practicability of mitigation options affecting state managed lands?
 - a. Preservation/conservation of more than Legislative review.
 - b. Sheila: requirement for the protection to be in place prior to construction. The practicability requirement is subservient to the significance determination.
5. Will the Corps work with the State to identify and evaluate potential compensatory mitigation approaches/options?
 - a. If yes, who is the Corps' point-of-contact for those discussions?
 - i. No, the State must work with PLP if they so choose.
6. Follow-up
 - a. Corps will look for examples of in-kind preservation on state lands
 - b. Corps will relook at the State's ILF program.
 - c. Damon Delarosa is the new commander

Kyle's brainstorming session after the meeting:

Concept (deliberative/preliminary)

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