



US Army Corps
of Engineers



COORDINATION AND MANAGEMENT PLAN

for the

PACIFIC REGION INTERAGENCY CORAL REEF MITIGATION WORKING GROUP (PIRWG)

April 2006



**COORDINATION AND MANAGEMENT PLAN FOR
PACIFIC REGION CORAL REEF MITIGATION WORKING GROUP (PRIWG)**

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ACRONYMS

CFR	Code of Federal Regulations
CNMI	Commonwealth of the Northern Mariana Islands
COE	U.S. Army Corps of Engineers, Honolulu District
CWA	Clean Water Act
DAWR	Division of Aquatic and Wildlife Resources (Guam)
DLNR	Department of Land and Natural Resources (Hawai‘i)
DOH	Department of Health (Hawai‘i)
EIS	Environmental Impact Statement
EO	Executive Order
EPA	U.S. Environmental Protection Agency
ESA	Endangered Species Act
FACA	Federal Advisory Committee Act
FERC	Federal Energy Regulatory Commission
FR	Federal Register
FWCA	Fish and Wildlife Coordination Act
GIS	Geographic Information System
HIWG	Hawai‘i Interagency Coral Reef Mitigation Working Group
NEPA	National Environmental Policy Act
NHPA	National Historic Preservation Act
NOAA	National Oceanographic and Atmospheric Administration
NPDES	National Pollution Discharge Elimination System

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PRIWG	Pacific Region Interagency Coral Reef Mitigation Working Group
RGL	Regulatory Guidance Letter, U.S. Army Corps of Engineers
TMDL	Total Maximum Daily Loads
USC	United States Code
USCRTF	U.S. Coral Reef Task Force
USFWS	U.S. Fish and Wildlife Service

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INTRODUCTION

In March 2006, the Pacific Region Interagency Coral Reef Mitigation Working Group (PRIWG) reached consensus to adopt this Coordination and Management Plan as a working document and general guidance for agency member interaction. The following agencies subsequently provided their concurrence: Pacific Islands Regional Office - National Oceanic and Atmospheric Administration (NOAA) Fisheries, U.S. Army Corps of Engineers (COE) Honolulu District, U.S. Environmental Protection Agency (EPA) Southwest Region, U.S. Fish and Wildlife Service (USFWS) Pacific Region, State of Hawai'i Department of Land and Natural Resources, and Guam Department of Agriculture.

This Plan is designed to be a living document to be modified in the future as needed. Each member of the working group shall, within the scope of their jurisdiction and authorities, comply with the goals of this plan and work cooperatively to share information and strategies to benefit the coral reef environment within the Pacific Region.

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1. Working Group Mission

The PRIWG is an interagency working group originally established as the Hawai‘i Interagency Coral Reef Mitigation Working Group (HIWG) in 2002 by USFWS, NOAA, and EPA staff in Honolulu. The PRIWG’s mission is to coordinate, review and develop consistent measures for evaluating and implementing mitigation programs that address impacts to coral reefs resulting from any federal action.

It is understood by all team members¹ that projects must first avoid and minimize impacts to coral reefs to the fullest extent practicable before compensatory mitigation measures may be considered or proposed. All applicable laws, regulations and policies will be used to guide the discussions and decisions of the group. Of particular note is the National Mitigation Action Plan, dated December 2002, established by a U.S. agency group that included the Department of the Army, EPA, Department of the Interior, Department of Commerce, Department of Agriculture, and Department of Transportation. The first product of the National Mitigation Action Plan was the issuance of COE Regulatory Guidance Letter No. 02-2 (RGL 02-2), dated December 24, 2002.

Although individual projects may be raised as examples in order to foster discussion, it is not the mission of this working group to approve or deny mitigation for any project. Review of proposed projects and their mitigation requirements remain within the sole purview of the applicable regulatory authorities and implementing agencies.

The PRIWG, and any ancillary groups, are not considered an advisory committee subject to the Federal Advisory Committee Act (FACA), and may seek advice or input for interested, knowledgeable, or affected parties without being subject to the FACA.

2. Working Group Goal

The goal of the PRIWG is not to dictate or influence the business activities of its member agencies, but, rather, to use Federal and State authorities to cooperatively work together to improve the effectiveness and efficiency of the compensatory mitigation process for coral reef resources in the Pacific. This is with the complete understanding of the mitigation process where compensation will only be addressed if, after avoidance and minimization options have been exhausted, unavoidable impacts to the coral reef ecosystem remain. The role of the PRIWG is advisory and collaborative only among the respective agency members. The PRIWG understands the regulatory framework and responsibilities of each agency and respects these authorities within the conduct of its business.

¹ “Members” and “new members” refer to the participating government agency office and not the individual representative. The individual representative will be selected by the participating government agency office – not the PRIWG.

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3. Working Group History with the U.S. Coral Reef Task Force

By Executive Order (EO) 13089, the U.S. Coral Reef Task Force (USCRTF) was established in June 16, 1998. The USCRTF was directed to, among other things, “oversee implementation of the policy and Federal agency responsibilities set forth in [the EO].” Section 2 of the EO, states:

- a. All Federal agencies whose actions may affect U.S. coral reef ecosystems shall: (a) identify their actions that may affect U.S. coral reef ecosystems; (b) utilize their programs and authorities to protect and enhance the conditions of such ecosystems; and (c) to the extent permitted by law, ensure that any actions they authorize, fund, or carry out will not degrade the conditions of such ecosystems.
- b. Exceptions to this section may be allowed under terms prescribed by the heads of Federal agencies; (1) during time of war or national emergency; (2) when necessary for reasons of national security, as determined by the President; (3) during emergencies posing an unacceptable threat to human health or safety or to the marine environment and admitting of no other feasible solution; or, (4) in any case that constitutes a danger to human life or a real threat to vessels, aircraft, platforms, or other man-made structures at sea, such as cases of force majeure caused by stress of weather or other act of God.

The USCRTF accomplishes its oversight responsibilities with respect to implementing the EO’s policies through the following actions: facilitating information exchange between Members, providing a source of technical assistance, coordinating and monitoring consistency with the EO’s policies, and providing a mechanism for the identification of and response to issues raised concerning implementation of the EO².

The HIWG was formed as a result of the Final Report on Compensatory Mitigation for Coral Reef Impacts in the Pacific Islands (written by USFWS, and funded by EPA and USFWS), which identified deficiencies and provided recommendations for improving the compensatory mitigation process for coral reefs in the Pacific. The USFWS, Pacific Islands Regional Office - NOAA Fisheries, and EPA invited the COE and the State of Hawai‘i to be involved in a discussion of the readily recognized problems and to meet on a regular basis to jointly cooperate to increase efficiency and effectiveness of the current compensatory mitigation process for coral reefs. In August 2002, USFWS, EPA and Pacific Islands Regional Office - NOAA Fisheries jointly sent letters to the State of Hawai‘i’s Department of Land and Natural Resources (DLNR) and Department of Health (DOH), and the COE Honolulu District Regulatory and Civil Works programs, requesting each designate an individual to participate in the HIWG (see Appendix A).

² Descriptions of the USCRTF are taken verbatim from the “Oversight Policy United States Coral Reef Task Force” found at www.coralreef.gov.

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As a result of USCRTF Resolution 2 (Interagency Working Group resolution) adopted in December 2004 in Miami, Florida, the HIWG extended an invitation to the territories of Guam and American Samoa and the Commonwealth of the Northern Mariana Islands (CNMI) to participate in the group's activities. Based on the interest expressed by the island territories and commonwealth, the HIWG was renamed the PRIWG, and this coordination and management plan attempts to reflect these recent additions.

4. Participants Responsibilities and Authorities

The PRIWG includes participants from Pacific Islands Regional Office - NOAA Fisheries, USFWS, EPA, COE, DLNR, DOH, as well as Guam's Department of Agriculture's Division of Aquatic and Wildlife Resources (DAWR), the Territory of American Samoa, and CNMI. All of the participating agencies have authority to regulate and/or perform works within waters that may support coral reef ecosystems. Short descriptions of each agency's responsibilities and authorities as they relate to coral reefs are presented below.

- a. **Pacific Island Regional Office - NOAA Fisheries:** Pacific Islands Regional Office - NOAA Fisheries has responsibilities that include research, mapping, monitoring, managing and conserving fisheries resources and their associated habitats within waters of the United States and cooperatively provides many of these services periodically in countries outside of the U.S. Pertinent legislation that mandates Pacific Island Regional Office - NOAA Fisheries to regulate and/or perform work within waters that support coral reef ecosystems include the National Environmental Policy Act, Fish and Wildlife Coordination Act, Clean Water Act, Rivers and Harbors Act, Marine Mammal Protection Act, Coastal Zone Management Act, Magnuson-Stevens Fishery Conservation and Management Act, SIKES Act, Sustainable Fisheries Act, Endangered Species Act, National Marine Sanctuaries Act, Oil Pollution Act, and the Coral Reef Conservation Act. Pacific Islands Regional Office - NOAA Fisheries operates under a number of coral reef related Executive Orders including 13089 Coral Reef Ecosystem Protection, 13158 Marine Protected Areas, 13112 Invasive Species, and 12962 Recreational Fisheries, as well as various foreign cooperative agreements.
- b. **U.S. Fish and Wildlife Service:** The USFWS is mandated, directly and indirectly, to oversee and/or conduct activities that may impact coral reefs by many statutes including the Fish and Wildlife Act of 1956 [16 USC 742a-742j] as amended; Fish and Wildlife Coordination Act of 1934 [16 USC 661-667e] as amended (FWCA); National Wildlife Refuge System Administration Act of 1966 [16 USC 668dd-668ee] as amended; Endangered Species Act of 1973 [16 USC 1531-1544] as amended; Federal Aid in Sportfish Restoration Act of 1950 [16 USC 777-777k] as amended; National Environmental Policy Act of 1969 [42 U.S.C. 4321-4347] as amended (NEPA); Clean Water Act of 1977 [33 USC 1251-1376] as amended (CWA); Rivers and Harbors Act of 1938 [33 USC 540] as amended (RHA); Marine

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Mammal Protection Act of 1972 [16 USC 1361-1407] as amended; Marine Protection, Research and Sanctuaries Act of 1972 [33 USC 1401-1445 and 16 USC 1431-1435] as amended; Oil Pollution Act of 1990 [33 USC 2701 et seq.] as amended; Sikes Act of 1960 [16 USC 670a-670o] as amended; as well as others. Executive Orders guiding USFWS actions that may impact coral reef ecosystems include EOs 13089 on Coral Reef Protection, 13158 on Marine Protected Areas, 13178 on the Northwestern Hawaiian Islands, 13112 on Invasive Species, and 12962 on Recreational Fisheries. USFWS involvement in mitigation for coral reef impacts is guided by the USFWS Mitigation Policy (46 FR 7643, January 23, 1981).

The USFWS Mitigation Policy outlines a general mitigation strategy for USFWS employees and is based on the definition of mitigation created by Council on Environmental Quality in NEPA regulations (40 CFR 1508.20). Further, NEPA policy recognizes “appropriate” mitigation for the alternatives analysis and, “to the fullest extent possible agencies shall prepare draft EISs concurrently with and integrated with environmental impact analysis and related survey and studies required by the FWCA, National Historic Preservation Act (NHPA), the Endangered Species Act (ESA) and other environmental review laws and EOs (40 CFR 1502.25(a)).”

The USFWS Mitigation Policy applies to all actions in which the USFWS evaluates fish and wildlife impacts and provides mitigation recommendations. This includes: (1) actions requiring a federally issued permit or license and impacting waters of the U.S. such as RHA Section 10 and CWA Section 404 permits, Federal Energy Regulatory Commission (FERC) hydropower licenses, and CWA Section 402 (National Pollution Discharge Elimination System [NPDES]) permits; (2) Federal actions where the USFWS has legislative authority or executive direction for involvement such as in water resource development projects that fall under the FWCA, coal mining, outer continental shelf lease sales, and Federal approval of State permit programs; and (3) Major Federal actions that significantly affect the quality of the human environment as covered under NEPA.

The USFWS Mitigation Policy creates four resource categories of decreasing importance and provides guidance on how to address compensatory mitigation for each category type. The first two categories apply to coral reefs. Category 1 (C1) resources are those that are of high value, unique and irreplaceable on a national basis or in the ecoregion and the mitigation goal is “no loss of existing habitat value” (page 7657). Category 2 (C2) resources are of high value, relatively scarce or becoming scarce on a national basis or in the ecoregion and the mitigation goal is “no net loss of in-kind habitat value” (page 7658). The Mitigation Policy provides some guidelines regarding what types of resources should be considered as C1 and C2, specifically including “(2) special aquatic and terrestrial sites including legally designated or set-aside areas such as sanctuaries, fish and wildlife management areas, hatcheries, and refuges, and other aquatic sites such as floodplains, wetlands,

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mudflats, vegetated shallows, coral reefs, riffles and pools, and springs and seeps” (page 7658-7659).

- c. U.S. Environmental Protection Agency: EPA has primary responsibility for implementing the Clean Water Act (CWA) to protect the physical, chemical, and biological integrity of the nation’s waters. EPA shares responsibility for implementing CWA Section 404 dealing with dredging and filling with the U.S. Army Corps of Engineers. EPA issued regulations under CWA Section 404 setting forth the Section 404(b)(1) Guidelines. The Guidelines require analysis of alternatives and selection of the least environmentally damaging practicable alternative. EPA reviews CWA Section 404 permit applications for compliance with section 404 and the Guidelines. EPA participates in the National Mitigation Workgroup and contributes to the development of national guidance on CWA Section 404 mitigation such as RGL 02-2.

Under the CWA, EPA has other authorities that relate to protection of coral reefs. These include regulation of land-based pollutants under CWA Section 402 (NPDES), Section 319 (non-point sources), and Section 303 (water quality standards). These programs are delegated to Hawai‘i Department of Health. Under the Marine Protection, Research and Sanctuaries Act (MPRSA) EPA has responsibility for designating ocean disposal sites for dredged material.

- d. U.S. Army Corps of Engineers: The COE regulates activities in coral reef ecosystems and sponsors construction activities in waters that may support coral reef ecosystems. The COE Regulatory Branch regulates proposed construction by public and private entities through the implementation of Section 10 of the Rivers and Harbors Act, Section 404 of the CWA, and Section 103 of the Marine Protection, Research and Sanctuaries Act. The COE, through its civil works programs, constructs harbor and shore protection projects; maintains the Nation’s navigational channels and harbors under its operations and maintenance mandates; provides assistance, through jointly cost-shared projects, to other Federal and state agencies, local governments, and countries in the form of expertise in ecosystem restoration, engineering, planning and design; and restores facilities and infrastructure in response to natural disasters such as hurricanes.
- e. Hawai‘i Department of Land and Natural Resources: The DLNR has authority and jurisdiction over coral reef resources within the waters of the State of Hawai‘i. DLNR manages all State public lands, including those that are submerged. The Hawai‘i State Constitution provides that the State shall manage all public resources, including marine resources for the people of Hawai‘i. Hawai‘i Revised Statutes Chapters 171, 183, 187A, 188, 189, 190, 195D provide the authority to manage State lands, water resources, fishery and wildlife resources, marine conservation districts, and threatened and endangered species. Specific Hawai‘i Administrative Rules, as authorized by statutes, manage coastal areas including nearshore marine ecosystems as well as species management.

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- f. Hawai‘i Department of Health Clean Water Branch (CWB)³: The mission of the Clean Water Branch is to protect the public health of residents and tourists who recreate in and on Hawai‘i’s coastal and inland water resources, and to also protect and restore inland and coastal waters for marine life and wildlife. The mission is to be accomplished through statewide coastal water surveillance and watershed-based environmental management through a combination of permit issuance, monitoring, enforcement, sponsorship of polluted runoff control projects, and public education.

The CWB works under the authority of the Federal Clean Water Act with the Section 401 Water Quality Certification program and the Section 402 National Pollutant Discharge Elimination System (NPDES) program delegated to the State by EPA. In addition, the Hawai‘i Revised Statutes (HRS) 0091 outline the administrative procedures that govern the CWB permitting and review programs. Clean Water Branch also oversees the Polluted Runoff Control Program which provides incentive grants to control non-point source pollution.

Department of Health’s Wastewater Branch oversees wastewater treatment and collection facilities in the State. Wastewater discharges and overflows have the potential to impact coastal water quality and coral reefs. The DOH Environmental Planning Office establishes water quality standards and conducts total maximum daily load (TMDL) assessments to determine pollution budgets for impaired waters. These programs assess and control pollution in inland and coastal waters.

- g. Guam Department of Agriculture, Division of Aquatic and Wildlife Resources (DAWR): The Department of Agriculture’s DAWR regulates activities to protect, preserve, manage, and conserve aquatic life, habitat, and marine communities and ecosystems, and to ensure the health, the welfare, and the integrity of marine resources and qualities for current and future generations by managing, regulating, restricting, or prohibiting activities to include but not limited to fishing, development, or human uses. This authority is through the implementation of Title 5 Guam Code Annotated Chapter 63, and Title 16 Guam Administrative Rules Chapter 2.
- h. Interested Observers: The PRIWG is open to other local, state and federal agencies who wish to observe the meetings. Interested observers do not exercise decision-making authority within the group. Individuals from the following entities have periodically participated as interested observers: U.S. Navy, Federal Highway Administration, Hawai‘i State Department of Transportation and Hawai‘i Coastal Zone Management Program.

³ The information on the DOH CWB authorities was obtained from the CWB website: www.state.hi.us/health/environmental/water/cleanwater. The DOH representative recently retired and as of December 2005, a new representative has not been designated.

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NOTE: The Government of American Samoa and the Government of the Commonwealth of the Northern Mariana Islands (CNMI) were invited to participate in the PRIWG in September 2005. A formal decision from these governments on their participation has not been received to date.

5. Decision Making Process

The PRIWG operates on a consensus-based approach. Since members are representing specific agencies with missions and goals defined by Federal and State laws, regulations and policies, all members agree that recommendations proposed by the PRIWG will not be in conflict with the laws, regulations and policies of their respective agencies.

The consensus recommendations of the PRIWG are not automatically binding on the respective member agencies and simply form a basis for the PRIWG to operate as a cooperative body. Majority and minority opinions may be expressed by the individual agency members of the PRIWG and these opinions shall be respected in the conduct of business.

The following is a summary description of consensus from “The Committee on a Sustainable Treasure Coast” and the PRIWG has agreed to uphold these principles during the conduct of its business. This description of consensus may be found at http://www.sustainabletc.org/meetings/CSTC_Consensus_guidelines.pdf.

Consensus is a process, an attitude and an outcome. Consensus processes have the potential of producing better quality, more informed and better supported outcomes. As a process, consensus is a problem solving approach in which all members:

1. Jointly share, clarify and distinguish their concerns;
2. Educate each other on substantive issues;
3. Jointly develop alternatives to address concerns; and then
4. Seek to adopt recommendations everyone can embrace or at least live with.

In a consensus process, members should be able to honestly say:

- I believe that other members understand my point of view;
- I believe I understand other members' points of view; and
- Whether or not I prefer this decision, I support it because it was arrived at openly and fairly and because it is the best solution we can achieve at this time.

As an attitude, consensus means that each member commits to work toward agreements that meet their own and other member needs and interests so that all can support the outcome. As an outcome, consensus means that agreement on decisions is reached by all

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members or by a significant majority of members after a process of active problem solving. In a consensus outcome, the level of enthusiasm for the agreement may not be the same among all members on any issue, but on balance all should be able to live with the overall package. Levels of consensus on a committee outcome can include a mix of:

- Participants who strongly support the solution
- Participants who can “live with” the solution
- Some participants do not support the solution but agree not to veto it.

NOTE: For the purpose of this group, no veto authority exists. A participant who does not support a decision of the group may disagree but will not impede the progress of the group.

6. Conflict Resolution Procedures

The PRIWG is committed to working within a consensus format to resolve all potential conflicts. If necessary, the PRIWG will request facilitators, subject matter experts, and/or upper level management to participate in discussions to assist in resolving conflicts via a consensus process.

7. Selection of New Members

“Members” and “New Members” refer to the participating governmental office not the individual. The individual representatives of the agencies are selected by the participating governmental office, not the PRIWG.

An invitation to participate in the PRIWG may be extended to new governmental agencies whose role may directly or indirectly affect coral reefs. Recommendations for new member invitations may be made by existing members or by prospective members (i.e. self-recommendation). The goal of expanded membership of the PRIWG is to provide mutual support, share information, encourage fair representation within the Pacific Region, and encourage consistent application of effective mitigation in the treatment of coral reef resources.

Comments from all participants and members will be provided reasonable weight and consideration based on the applicability of the topic to their island region. For example, comments from participants from the territories on coral reef impact issues specific to Hawai‘i will be considered as informational only, not as part of the consensus decision-making process. For coral reef impact issues that may affect a broader scope (such as Guam and Hawai‘i), those participants in the region of influence will have the authority to fully participate in the consensus decision making process.

The PRIWG also recognizes that separate working groups for each state, territory, freely

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associated state⁴, or any combination thereof, may be created in the future as resources and issues allow.

8. Communications Plan

The PIRWG agrees to strive to adhere to the following principles and guidelines:

a. Internal Communication

- Focus on issues and content, not personalities and people.
- Try to be creative when it is appropriate, and fact- and logic-driven.
- Respect others – be on time to meetings.
- Follow through on agreements and action items.
- If unable to attend PRIWG meetings, please send an alternate or inform another member that will be attending in your absence.

b. External Communication

(1) **To the USCRTF.** The USFWS has served as the primary agency for relaying information from the PRIWG to the USCRTF. The majority of this communication is done via presentations at the USCRTF meetings. Prior to any presentation, the USFWS, or another lead agency selected to present information on the activities of the PRIWG, will seek the PRIWG's comment and approval on the content of the presentation. The PRIWG will submit updates to the USCRTF in accordance with Resolution 2 (Interagency Working Group resolution) adopted at the December 2004 USCRTF meeting (Miami, Florida).

(2) **To the Public.** Communication to the public will be primarily via information provided to the USCRTF (presentations, annual report updates, and via the web site). If the PRIWG decides to develop guidelines or tools for consistent review of projects in coral reef areas, the participating government offices will seek the guidance on recommended methods of public outreach from their respective public affairs offices. Public outreach will be designed to meet the needs of the individual guideline or tool in compliance with applicable federal and/or state laws and regulations.

Communication with the public should be in a broad context and shall not take any position regarding individual projects or programs under the jurisdiction of individual member agencies. Assurance shall be made that communications will avoid conflict with the individual agency's public positions. All public releases for individual projects remain within the jurisdiction of the member agency.

⁴ "Freely Associated States" include the Republic of Palau, Republic of the Marshall Islands, and the Federated States of Micronesia.

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9. Working Group Priorities

Through consensus, the PRIWG has identified priority tasks on which to focus. Completion of these tasks is subject to availability of staff time and funding. The tasks are as follows:

Priority Tasks for PRIWG:

- Summarize existing policies and authorities for mitigation
- Investigate, develop and test methodologies for assessing functions and values of coral reef ecosystems
 - ⌚ Investigate systems of habitat classification for coral reef ecosystems
 - ⌚ Develop a checklist for assessing functions and values
- Develop a menu of coral reef mitigation techniques
 - ⌚ Conduct a critical review of mitigation and restoration techniques, the functions they provide, and conditions for success
- Develop a database and tracking system for coral reef mitigation actions
- Develop guidelines for monitoring and maintenance of coral reef mitigation actions

10. Meeting Schedule

The PRIWG meets approximately every 6 to 8 weeks, with the meeting dates set to accommodate the schedules of as many members as possible as well as the availability of occasional guest speakers.

11. Lessons Learned Review

The PRIWG will conduct regular discussions on “lessons learned” to determine what aspects of the group are working well, what aspects need improvement, and to generate alternative methods to conduct activities in the future.

The lessons learned reviews will occur at a minimum of once a year on the overall process and coordination of the PRIWG. The lessons learned will be reported to the USCRTF annually at one of their regular meetings. In addition, whenever a specific task or priority has been completed, the PRIWG will have a lessons learned discussion on that task at the next PRIWG meeting.

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REFERENCES

- Department of the Army, U.S. Environmental Protection Agency, Department of the Interior, the National Oceanic and Atmospheric Administration and the Federal Highways Administration. National Wetlands Mitigation Action Plan. December 2002. <http://www.mitigationactionplan.gov/map1226withsign.pdf>
- National Academy of Sciences. Compensating for Wetland Losses Under the Clean Water Act. National Academy Press. Washington, D.C. 2001.
<http://www.nap.edu/books/0309074320/html/>
- U.S. Army Corps of Engineers. Regulatory Guidance Letter No. 02-2 (RGL 02-2) – Guidance on Compensatory Mitigation Projects for Aquatic Resource Impacts Under the Corps Regulatory Program Pursuant to Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act of 1899. 24 December 2002.
<http://www.usace.army.mil/inet/functions/cw/cecw0/reg/RGL2-02.pdf>
- U.S. Army Corps of Engineers and U.S. Environmental Protection Agency. Memorandum of Agreement Between the Environmental Protection Agency and the Department of the Army Concerning the Determination of Mitigation under the Clean Water Act Section 404(b)(1) Guidelines. 6 February 1990.
<http://www.usace.army.mil/inet/functions/cw/cecw0/reg/moafe90.htm>
- U.S. Coral Reef Task Force. Resolution 12-2 – Establish Interagency Working groups to Increase Effectiveness of Compensatory Mitigation Measures in Coral Reef Ecosystems. Miami, Florida, December 2004.
<http://www.coralreef.gov/taskforce/pdf/res%2012-2.pdf>
- U.S. Fish and Wildlife Service. Final Report: Compensatory Mitigation for Coral Reef Impacts in the Pacific Islands. September 2003.
<http://www.fws.gov/pacificislands/worg/pcrmreport.pdf>

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APPENDIX A

Letters of Invitation

In August 2002, the following letter of invitation was sent to:

Mr. William Devick
Division of Aquatic Resources
State of Hawai'i Department of Land and Natural Resources
1151 Punchbowl Street, Room 330
Honolulu, HI 96813

Mr. Gary Gill
Deputy Director for Environmental Health
State of Hawai'i Department of Health
P.O. Box 3378
Honolulu, Hawai'i 96801

Mr. Paul Mizue
US Army Corps of Engineers
Bldg. 230, CEPOH-PP-C
Ft. Shafter, HI 96858-5440

Mr. George Young
US Army Corps of Engineers
Bldg. 230, CEPOH-EC-R
Ft. Shafter, HI 96858-5440

In August 2005, a similar request to participate was provided to Government of Guam, Department of Agriculture, American Samoa and Commonwealth of the Northern Marianas Islands.

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In Reply Refer To: PI-02-101

August 2002

Paul Mizue
US Army Corps of Engineers
Bldg. 230, CEPOH-PP-C
Ft. Shafter, HI 96858-5440

Dear Paul,

We request that you designate a U.S. Army Corps of Engineers, Civil Works Branch (Corps), representative to the Hawai'i Interagency Coral Reef Mitigation Working Group (Working Group). This Working Group plans to develop a joint policy to improve compensatory mitigation for impacts to coral reefs from federally funded and permitted coastal construction projects.

In 1998, Executive Order 13089 on Coral Reef Protection (EO) directed Federal agencies to use their authorities to conserve U.S. coral reef ecosystems. The EO created the Coral Reef Task Force which published the Coral Reef Action Plan (Action Plan). The Action Plan outlines the tasks necessary to achieve the goals of the EO. One task in the Action Plan is to assess the effectiveness of compensatory mitigation. In 2001, the U.S. Fish and Wildlife Service (FWS) and the Environmental Protection Agency (EPA) jointly funded a report to examine past federally funded and permitted projects in the western Pacific with unavoidable impacts to the coral reef ecosystem (see enclosed fact sheet). Federal resource agencies mitigation policies require some form of compensatory mitigation for unavoidable losses. This report shows that our agencies need to be more effective in compensating for the losses to the coral reef ecosystem from coastal construction.

In short, the report makes four recommendations: 1) Create an Interagency Coral Reef Mitigation Working Group tasked with writing a Coral Reef Mitigation Policy aimed at increasing efficiency and effectiveness of compensatory mitigation; 2) Create a process by which unavoidable impacts to the coral reef ecosystem can be assessed and establish guidelines for recommending appropriate compensatory mitigation; 3) Write monitoring guidelines so a project's compensatory mitigation can be evaluated over time and the effectiveness can be

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PACIFIC REGION CORAL REEF MITIGATION WORKING GROUP (PRIWG)**

determined; 4) Create a tracking system so information for each project and the associated compensatory mitigation can be easily retrieved.

We are forming a Working Group (see attachment for agency representatives) to address mitigation concerns highlighted in this report for the State of Hawai'i. Because the Corps Civil and Public Works Branch is a major Federal construction and planning entity, we believe it is essential that you assign a representative to the Working Group.

Antonio Bentivoglio (FWS) and Steve Kolinski (NMFS) are co-chairs of the Working Group. Please forward the name of the Corps representative to Antonio Bentivoglio (808 541-3441; Antonio_Bentivoglio@fws.gov), who will coordinate the upcoming meetings and agenda items. Thank you for your continued dedication to Hawai'i's coral reefs.

Sincerely,

<u>/s/</u>	<u>/s/</u>	<u>/s/</u>
Paul Henson, PhD Field Supervisor PIFWO USFWS	Tim Vendlinski Manager Wetlands Regulatory Office USEPA Region IX	Charles Karnella Administrator PIAO NMFS

Enclosure:

Investigation of Compensatory Mitigation for Coral Reef Impacts in the Pacific Island from Federally Funded and Permitted Actions

cc:

George Young, ACOE, Honolulu

**COORDINATION AND MANAGEMENT PLAN FOR
PACIFIC REGION CORAL REEF MITIGATION WORKING GROUP (PRIWG)**

Working Group Agency Representatives

Antonio Bentivoglio
FWS Co-chair

Steve Kolinski
NMFS Co-chair

Wendy Wiltse
EPA Representative

Farley Watanabe (invited)
Corps Regulatory Representative

Molly Kihara (invited)
Corps Civil Works Representative

Office of Coastal Resources Management Representative (invited)

Charles Birkeland
Academic Representative

Additional Representatives

Michael Molina
FWS

Alan Everson
NMFS

John Naughton
NMFS

Jonathan Kelsey
OCRM