Update on Ecology's Compliance Monitoring Program
Mitigation That Works Forum
July 15, 2008

Why is a compliance program important?

Ecology's 2001 mitigation study showed a correlation between agency follow-up (letters, phone calls, and site visits) and site success. Ecology uses the compliance program to identify problems with sites in their early stages of development. This information helps Ecology determine corrective actions necessary to ensure successful site development.

Overview

The program was initiated in 2006 with grant funding from EPA. EPA provided funding for three years to develop the program and perform some compliance reviews. Ecology received funding from the legislature to continue the compliance program as part of our core work in 2007.

Ecology staff visit sites as soon after construction as possible and no later than 18 months after being notified that construction is complete. Ecology placed priority on sites permitted since 2004. We visit older sites as time and funding allow.

Ecology's goal is to visit sites:

1. As soon after construction as possible.
2. At the midpoint of the monitoring period.
3. At the end of the monitoring period.

Additional site visits may be necessary if staff identify problems during previous site visits.

Compliance Process

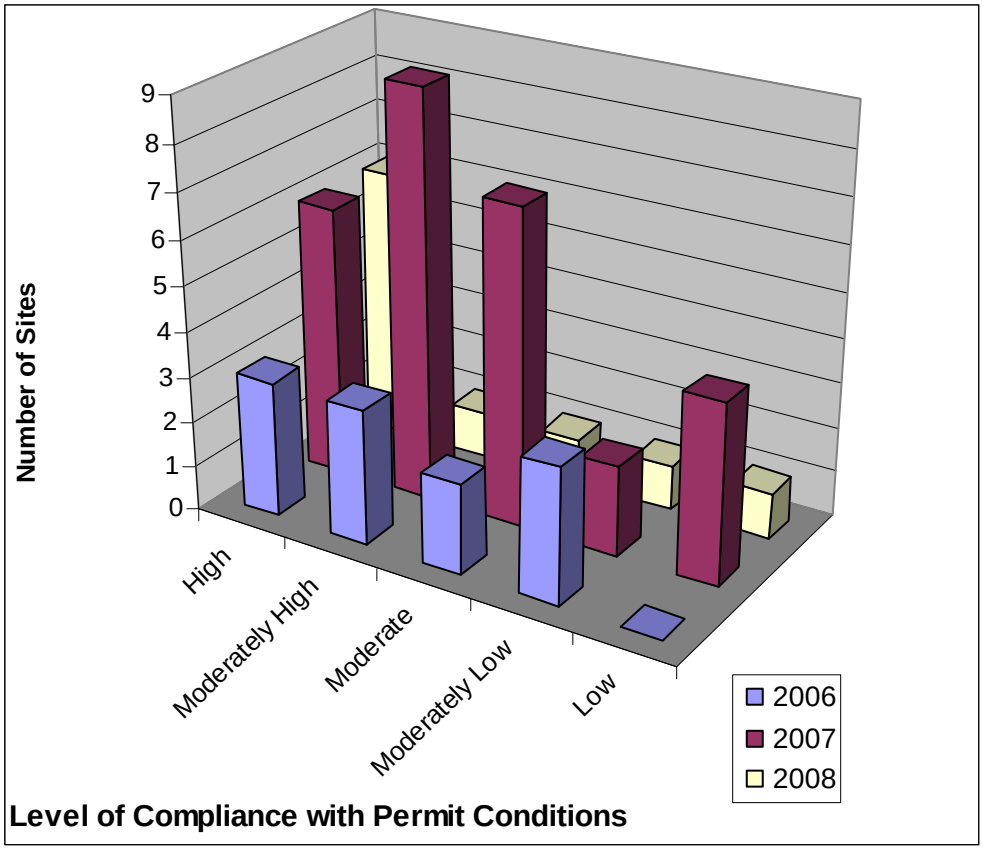
1. **Review permit and determine status of project**. –
    - Is the project on hold due to other regulatory delays?
    - Did the applicant choose not to continue with the development project?
    - If the applicant constructed the development project and impacts occurred, what is the status of the mitigation site (under construction, construction completed, no construction)?
2. **Visit site with all parties (applicant, Corps, local government)** to the greatest extent possible. Ecology coordinates with all parties on all project site visits. However, all parties may not participate due to logistical or staffing constraints.
3. **Inspect site and determine level of compliance** with permit requirements.

- Are there problems that will affect the success of the project?
- Mid and final close-out visits will also include collecting data on ecological success – Did the mitigation project achieve its ecological goals and objectives?

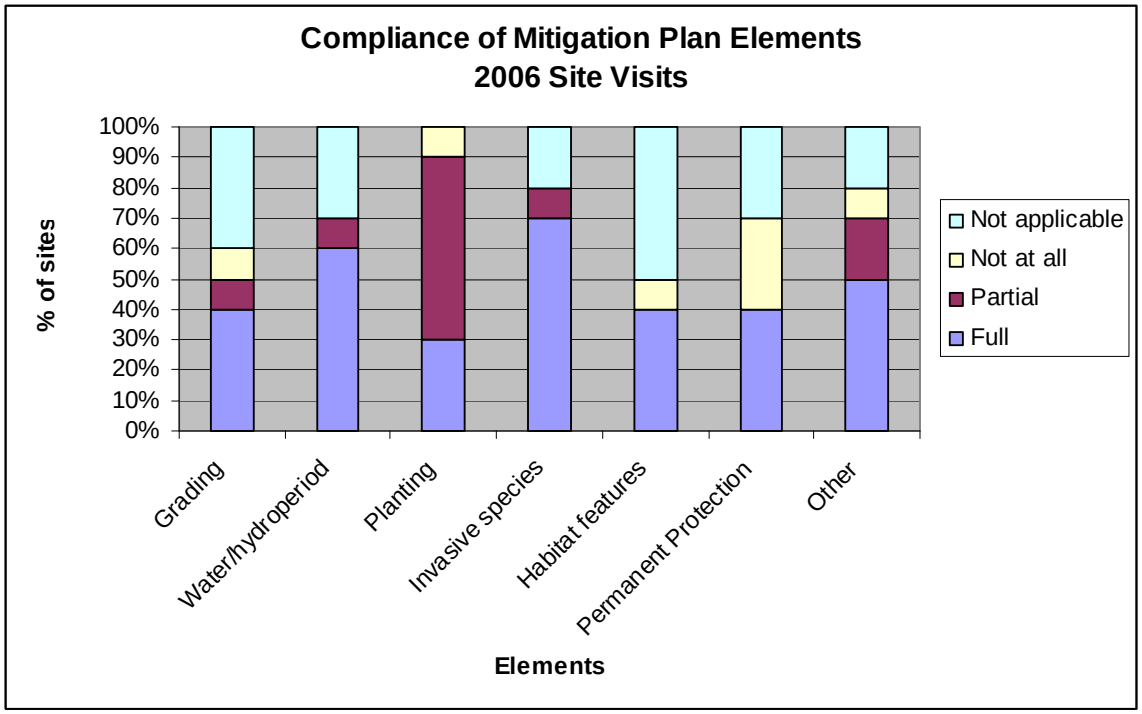
4. **Send formal follow-up letter to applicant** (and cc: all parties) stating whether the site meets the requirements of Ecology's Order or not. If not, what aspects of the mitigation are deficient, and what corrective actions can be taken.

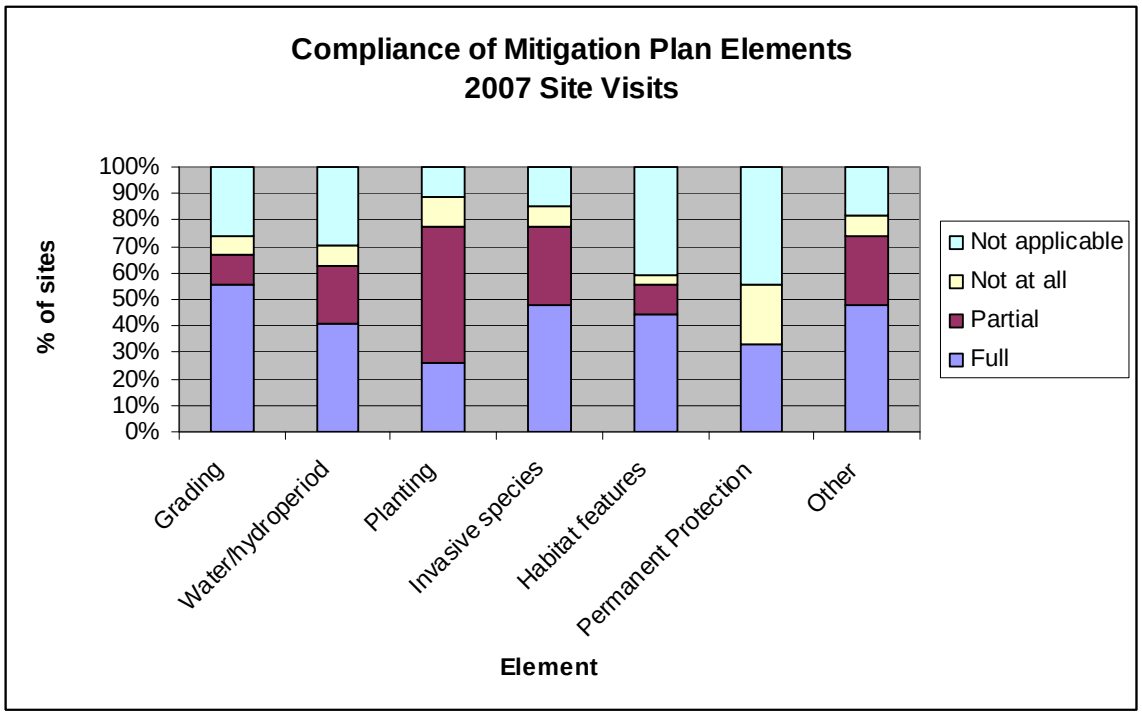
<u>What is the data showing us?</u>

- It is still too early to draw any definitive conclusions based on the limited sample size (11 visits in 2006, 28 visits in 2007, and 15 visits in 2008) and evolving site evaluation methods.
- The planting element has the lowest level of full compliance, with ~30% of the sites in full compliance.
- 50% of the sites fully complied with their invasive species requirements.
- 60% of the sites fully complied with grading requirements (based on visual inspection).



High to Low ranking is based on how many of the plan elements were met using qualitative measures.





Other = additions such as buffers, signage, fencing, trails.

Successes of the compliance program

1. Increased mitigation success – work with the applicant to address issues that would result in site failure.
2. Improved permitting decisions – lessons learned during site visits can be applied to review of current mitigation proposals.
3. Better interagency coordination – Corps & locals – Sharing information and joint site visits provide an opportunity for cross-training and "getting on the same page" for particular projects and mitigation in general.
4. Voluntary compliance – We see applicants responding to our requests for information.

Next Steps

- To improve mitigation success, Ecology provides guidance and training to local governments and developers on site selection, site design considerations and plan review.
- We want to complete additional compliance visits during the construction and monitoring period.
- Forum suggestions/recommendations?