

August 21, 2019

Indiana Stream and Wetland Mitigation Program (IN SWMP)

Indiana's In-Lieu Fee (ILF) Mitigation Program

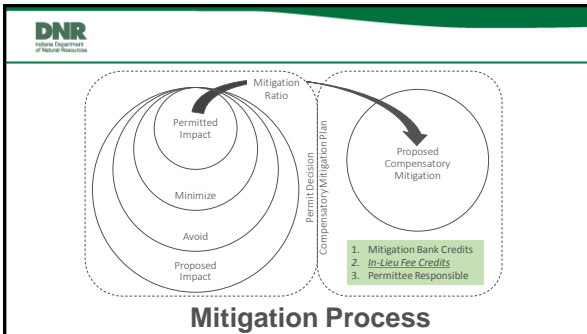
Carl Wodrich, Assistant Director
Division of Land Acquisition
Farm Bureau Drainage School

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Permitting Programs & IN SWMP

- Army Corps of Engineers – regulations under:
 - Section 10 Harbors Act
 - **Section 404 of Clean Water Act (CWA)**
- Indiana Dept of Environmental Management – regulations under:
 - **Section 401 Water Quality Certifications (CWA)**
 - Indiana Isolated Wetlands Law
- Indiana DNR Division of Water:
 - For construction in a floodway, public freshwater lake or navigable waterway
 - **STILL FORTHCOMING...**



What is an In-Lieu Fee Mitigation Program?

- *In-lieu fee (ILF) program*: restoration, establishment, enhancement, and/or preservation of aquatic resources through funds paid to a governmental or nongovernmental natural resource management organization.
- Permittee purchases credits from ILF sponsor
- ILF Sponsor sells credits “in advance” of building mitigation projects
- **Sponsor builds and maintains** larger mitigation projects than permittee-responsible mitigation projects after impacts are authorized.
 - **MUST FOLLOW 2008 Federal Mitigation Rule**

Sources of Mitigation

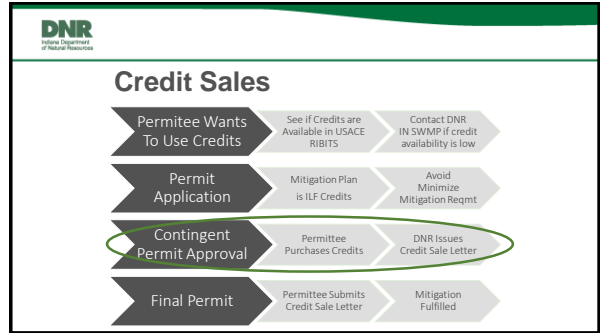
- **Mitigation bank**: provide compensatory mitigation *in advance of authorized impacts* to similar resources; requires up-front investment and usually a for-profit entity or conservation NGO
 - “Released credits” are sold by mitigation banks.
- **Permittee-responsible mitigation**: Individual projects constructed by permittees to provide compensatory mitigation for activities authorized by permits.
- **In-lieu fee programs**: provide compensatory mitigation *after* impacts have been authorized.
 - In-lieu fee programs sell credits “advance credits”
 - Each service area has a specific allotment of advance credits available
 - ILF projects will generate “released credits” to fulfill Advance Credits that have been sold

Purpose & Benefits of the Program

- Provides specific costs of mitigation for applicants
- Shortens project timeframes for permittees
- Integrate other conservation efforts
 - DNR & Conservation Partners
- Consolidate Mitigation
 - Gain Efficiencies
 - Increase Ecological Significance
 - Prioritization of potential projects using Compensation Planning Framework (CPF)
- 11 Statewide, Watershed-Based Service Areas

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How Does the program work?



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DNR Credit Sale Process

1. Check RIBITS web site - <https://ribits.usace.army.mil/ribits>
2. No need to contact DNR prior to permit application submission.
3. Submit permit applications to USACE and/or IDEM
4. Regulatory agencies determine appropriate amount of mitigation credits required.
5. DNR needs permittees to have final permits in hand before credit purchase can be initiated

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DNR Credit Sale Process

Once you have final permits, you can contact DNR at INSWMP-Inquiry@dnr.IN.gov

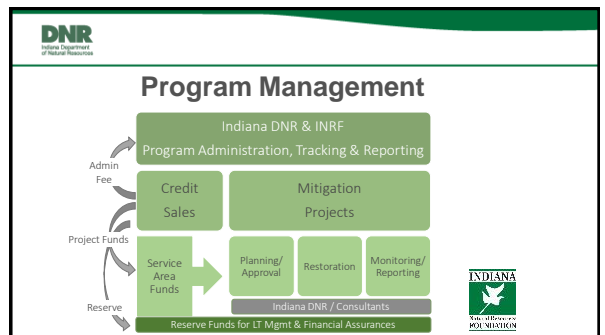
1. DNR will request an invoice from INRF and email it along with purchase instructions
2. Once funds are received, DNR will produce a credit sale letter and attached a receipt from INRF
3. Copy of all credit sale letters are sent to the Corps and IDEM as necessary. It is ultimately the permittee's responsibility to provide the letter to regulators to satisfy permit requirements.

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DNR IN SWMP Website

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Credit Price Components

Project Component	% of Credit Cost
Land Acquisition/Protection	up to 50%
Engineering Design/Plan Development/PM	up to 20%
Financial Assurances	up to 20%
Construction	up to 60%
Monitoring / Adaptive Management	up to 20%
Long Term Management	up to 20%
Contingencies	up to 15%
IN SWMP Administration Costs	up to 15%

*Credit pricing must include FULL COST ACCOUNTING for full delivery

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Credit Pricing

Service Area	Stream Credit Price	Wetland Credit Price
Calumet-Dunes	\$600	\$95,000
St. Joseph River (Lake MI)	\$600	\$120,000
Maumee	\$450	\$80,000
Kankakee	\$500	\$95,000
Upper Wabash	\$400	\$80,000
Middle Wabash	\$400	\$80,000
Upper White	\$450	\$80,000
Whitewater-East Fork White	\$400	\$80,000
Lower White	\$400	\$80,000
Upper Ohio	\$400	\$80,000
Ohio-Wabash Lowlands	\$400	\$80,000

Wetland credit = 1 acre equivalent; Stream credit = 1 linear foot equivalent

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Advance Credits Available

Service Area	Wetland Credits	Stream Credits
Calumet-Dunes	90	45,000
St. Joseph River (Lake MI)	90	45,000
Maumee	90	45,000
Kankakee	90	45,000
Upper Wabash	90	45,000
Middle Wabash*	90	45,000
Upper White	120	60,000
Whitewater-East Fork White	90	45,000
Lower White*	90	45,000
Upper Ohio	90	45,000
Ohio-Wabash Lowlands*	115	50,000

*Up to an additional 50% more credits in these 3 SAs; 35% additional possible in other 8

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Targeted Project Size*

Service Area	Wetland Credits	Stream Credits
Calumet-Dunes	20	2,000
St. Joseph River (Lake MI)	6	1,500
Maumee	20	4,000
Kankakee	10	3,000
Upper Wabash	20	9,000
Middle Wabash	15	10,000
Upper White	35	14,000
Whitewater-East Fork White	25	7,000
Lower White	20	9,000
Upper Ohio	20	7,000
Ohio-Wabash Lowlands	35	11,000

*This is based upon our business model and historical mitigation data from the Corps (2009-2015) → full restoration.

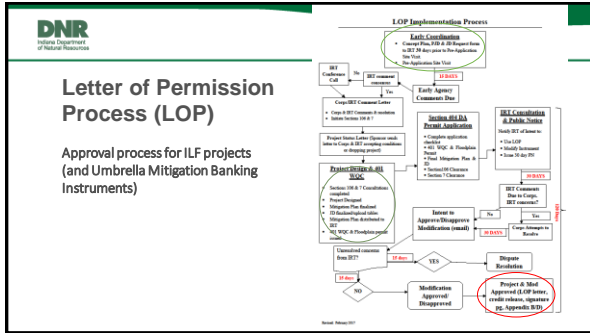
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Mitigation Project Selection: Compensation Planning Framework

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Mitigation Project Selection: Compensation Planning Framework

- CPF includes a "Statewide Prioritization Strategy" for project selection
 - 1) Must Replace Lost Functions & Services
 - 2) Re-establishment → Rehabilitation → Establishment → Enhancement → Preservation.
 - 3) Within or Adjacent to Other Priority Conservation Areas
 - 4) Address identified threats within the watershed/SA
- Each Service Area has more specific priorities



- ### IN SWMP Mitigation Projects (LOP)
- Sponsor/DNR will identify potential mitigation projects for advance credits sold (and yet to be sold)
1. Develop/submit a Conceptual Project Plan & JD
 - Early Coordination/Site visit → Submit concept plan
 - Corps & IRT review & approval to move forward
 - Land acquisition/site protection
 2. Develop/submit a Mitigation Project Plan / Design
 - Corps & IRT review & approval process; permitting
 3. Construction of project
 4. Monitoring & Maintenance (5-10+ yrs)
 - *Each Mitigation Plan is an amendment to the Instrument*

Credit Sales as of End of June

Service Area	Wetland Credits	Stream Credits	Total Funds
Calumet-Dunes	4.88	0	\$463,600.00
Kankakee	3.78	310	\$514,100.00
St. Joseph	1.54	0	\$184,800.00
Maumee	0	0	\$0.00
Upper Wabash	0.83	590	\$270,400.00
Upper White	3.51	1,653	\$1,024,650.00
Middle Wabash	2.68	771	\$522,800.00
Whitewater-EFW	9.582	0	\$766,560.00
Lower White	0	249	\$99,600
Ohio-Wab. Lowlands	7.23	373	\$727,600.00
Upper Ohio	5.795	2,580	\$1,540,000.00
TOTAL	39.827	6,277	\$6,014,510.00

- ### Benefits of the program
- Provides a clear and known cost for wetland and stream mitigation for permit applicants for budgeting and planning purposes
 - Provides for long-term management of mitigation sites
 - Reduced the national average permitting timelines with projects that required compensatory mitigation:
 - In-Lieu Fee Program as mitigation ~ 136 days
 - Permittee-responsible mitigation ~ 243 days (off-site restoration/mitigation)
- *Source: USACE, IWR & US EPA: Mitigation Rule Retrospective Factsheet, 2010-2014 Permit Data

- ### Benefits and Challenges
- Ownership of IN SWMP projects
 - DNR, land trusts, local gov't parks dept., Feds, private
 - DNR will hold CEs on property we do not own in title
 - **Long-term maintenance funding** post-release
 - ILF Program and Project Restrictions
 - Federal coordination will be required on lands purchased with federal \$\$
 - Need to show ecological uplift; increase in resource/function
 - **All projects will require real estate restrictions (CE or deed restrictions)**
 - **Legal Drains → Corps will require vacation of drain for stream mitigation restoration projects**

- ### DNR division of water permits
- **Construction in a Floodway – Flood Control Act (IC 14-28-1)**
 - **Construction on a Public Freshwater Lake – Lake Preservation Act (IC 14-26-2)**
 - **Construction in a Navigable Waterway – Navigable Waterways Act (IC 14-29-4)**

DNR **Questions?**
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Carl Wodrich
Assistant Director
Division of Land Acquisition
317-232-1291
cwodrich@dnr.IN.gov

<https://on.IN.gov/inswmp>

Indiana Stream and Wetland Mitigation Program (IN SWMP)
Map for acquisition
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IN SWMP Staff
Carl Wodrich
Assistant Director
Division of Land Acquisition
317-232-1291
cwodrich@dnr.IN.gov

**Colombus County
Service Area**

Map Legend
North
South

IN SWMP Service Area
Colombus County
Crawford County
Franklin County
Hamilton County
Harrison County
Hendricks County
Huntington County
Madison County
Marion County
Miami County
Monroe County
Morgan County
Posey County
Randolph County
Shelby County
Tipton County
Vanderburgh County
Vigo County
Warrick County
Wayne County
Whitley County

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