



**US Army Corps
of Engineers**

Louisville, Detroit, and
Chicago Districts ®

Public Notice

Public Notice No.
LRL-2014-100-1d

Open Date:
16 Jul 2014

Close Date:
18 Aug 2014

Please address all comments and inquiries to:
U.S. Army Corps of Engineers, Louisville District
ATTN: Mr. Laban Lindley
Indianapolis Regulatory Office
8902 Otis Avenue, Suite S106B
Indianapolis, Indiana 46216

Phone: 317-543-9424

**NOTICE ANNOUNCING THE PROPOSED INDIANA STREAM AND WETLAND
IN-LIEU FEE MITIGATION PROGRAM**

Interested parties are hereby notified that the Louisville, Detroit, and Chicago Districts of the U.S. Army Corps of Engineers (Corps) have received a proposal to establish an In-lieu Fee (ILF) Program. The Corps will evaluate the program in accordance with implementing regulations at 33 CFR Part 332, "*Compensatory Mitigation for Losses of Aquatic Resources*" ("*Mitigation Rule*"), as published in the Federal Register (Vol. 73 No. 70, p 19670-19705 33 USC 401 et seq.; 33 USC 1344; and Pub. L. 108-136), by the Corps of Engineers and the U.S. Environmental Protection Agency on April 10, 2008.

Department of the Army (DA) Permits are required in accordance with Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403) for work in or affecting traditionally navigable "waters of the United States" (U.S.) and in accordance with Section 404 of the Clean Water Act (CWA) (33 USC 1344) for the discharge of dredged and/or fill material into "waters of the U.S." Compensatory mitigation is required to replace aquatic functions and services lost due to unavoidable impacts authorized by DA permits. The ILF mitigation occurs in circumstances where a permittee provides funds to an ILF Sponsor instead of completing permittee-responsible mitigation or purchasing credits from an approved mitigation bank.

IN-LIEU FEE SPONSORS - Indiana Department of Natural Resources (IDNR)
402 West Washington Street, W261
Indianapolis, Indiana 46204

Indiana Natural Resources Foundation
402 West Washington Street, W256
Indianapolis, Indiana 46204

IN-LIEU FEE PROGRAM OVERVIEW - The term "in-lieu fee program" refers to a program involving the restoration, establishment, enhancement, and/or preservation of aquatic resources through funds paid to a governmental or non-profit natural resources management entity to satisfy compensatory mitigation requirements. Similar to a mitigation bank, an ILF program sells compensatory mitigation credits to permittees whose

obligation to provide compensatory mitigation is then transferred to the ILF fee program sponsor. The operation and use of an ILF program are governed by an ILF program instrument, approved by the District Engineer.

The program sponsors, the Indiana Department of Natural Resources (IDNR) and the Indiana Natural Resources Foundation (INRF), have submitted a complete program prospectus dated June 25, 2014, entitled "*In-Lieu Fee Program Prospectus for Indiana Stream & Wetland Mitigation Program.*" The Indiana Stream and Wetland ILF Mitigation Program is an ILF program being proposed as a means to fulfill the requirements for compensatory mitigation associated with projects, which may be permitted by the Corps and/or the Indiana Department of Environmental Management. If the program is approved, it would provide an alternative to permittee-responsible mitigation.

LOCATION - The proposed Indiana Stream and Wetland ILF Mitigation Program would be applicable for aquatic resource impacts within the entire State of Indiana.

SERVICE AREA - The service area(s) of an ILF program is the geographic area(s) within which permitted impacts can be mitigated by the ILF program as designated in its instrument. The submitted prospectus for the Indiana Stream and Wetland ILF Mitigation Program proposes 11 separate service areas across Indiana (Figure 1). The proposed service areas are: 1) Calumet-Dunes, 2) Kankakee, 3) St. Joseph River, 4) Maumee, 5) Upper Wabash, 6) Middle Wabash, 7) Upper White, 8) Whitewater-East Fork White, 9) Lower White, 10) Upper Ohio, and 11) Ohio-Wabash Lowlands. The 8-digit hydrologic unit code (HUC) watersheds were used as the basis for two of the proposed service areas (Upper White and St. Joseph River service areas). The remaining nine service areas are proposed as a combination of 8-digit watersheds.

PROPOSED ILF PROGRAM DESCRIPTION - The proposed ILF program prospectus includes the following: a) objectives of the proposed ILF program, b) establishment and operation of the ILF program, c) proposed service areas, d) general need for and technical feasibility of the proposed ILF program, e) proposed ownership arrangements and long-term management strategy for ILF project sites, f) qualifications of the sponsor, g) compensation planning framework, and h) description of the ILF program account.

The complete Indiana Stream and Wetland ILF Mitigation Program prospectus is available for review during normal business hours at the above-listed Corps office and may also be viewed at the Louisville District's Internet web site (<http://www.lrl.usace.army.mil/Missions/Regulatory.aspx>) by clicking on "Public Notices."

COMMENT AND REVIEW PROCEDURES - This proposal will be reviewed in accordance with the procedures found at 33 CFR Part 332 "*Compensatory Mitigation for Losses of Aquatic Resources.*"

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Under Part 332, an Interagency Review Team (IRT) consisting of members of federal and state agency representatives, will review the ILF program prospectus and the comments received in response to this notice, and will make an initial evaluation as to the potential of the proposed ILF program to provide compensatory mitigation for activities authorized by DA permits. If the District Engineer determines that the ILF program has the potential to provide compensatory mitigation, then the sponsor will be notified that they may proceed with preparation of a draft instrument. The IRT will review the proposed ILF program instrument and oversee its establishment, use, and operation. The Louisville District, with input from the Detroit and Chicago Districts, will act as the chair for the IRT and will make all final decisions regarding the use and operation of the proposed ILF program instrument.

Copies of this notice are sent to the appropriate Federal and State Fish and Wildlife Agencies. Their views and comments are solicited in accordance with the Fish and Wildlife Coordination Act of 1956. Copies of this notice are also sent to the appropriate Indian tribes and state agencies soliciting views and comments in accordance with the National Historic Preservation Act of 1966 - Public Law 89-665 as amended (including Public Law 96-515).

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this proposal. A request for a public hearing must state the specific interest which might be damaged by approving this proposal.

The Corps of Engineers is soliciting comments from the public; Federal, State, and local agencies and officials; Indian tribes; and other interested parties in order to consider and evaluate the proposal in accordance with 33 CFR Part 332. Any comments received will be considered by the Corps of Engineers to determine whether to approve this prospectus. Comments are also used to determine the need for a public hearing. For accuracy and completeness of the record, all comments should be submitted in writing with sufficient detail to furnish a clear understanding of the comment.

Written statements received in this office on or before the closing date will become a part of the official record and will be considered in determining whether to approve the prospectus. Any objections which are received during this period will be forwarded to the Sponsor for possible resolution before the determination is made regarding whether to approve the prospectus. The prospectus will be approved unless it is found to be contrary to 33 CFR Part 332. If the prospectus is not approved, the reasons for that determination will be provided to the sponsor who may revise the prospectus to address the District Engineer's concerns. Upon submittal of a revised complete prospectus, a revised public notice will be issued.

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Information pertaining to this proposal is available for public examination during normal business hours upon prior request. A copy of the prospectus is available on Louisville District's Internet site at <http://www.lrl.usace.army.mil/Missions/Regulatory.aspx>. All comments regarding this proposal should be addressed to Mr. Laban Lindley, at the address noted above and should refer to the Public Notice Number LRL-2014-100-1c1.

If you desire to submit your comments by email, you must comply with the following:

a) In the subject line of your email, type in **ONLY** the Public Notice ID No. LRL-2014-100-1c1.

Example:

Subject: LRL-2014-100-1c1

b) Provide your physical mailing address and telephone number.

c) Send your email to: lrl.regulatorypubliccomment@usace.army.mil.

d) If you are sending attachments greater than 1 Mb in size with your email, you must send a hard copy (CD or paper) to the Corps' physical address as well.

Indiana Stream and Wetland Mitigation Program Proposed Service Areas

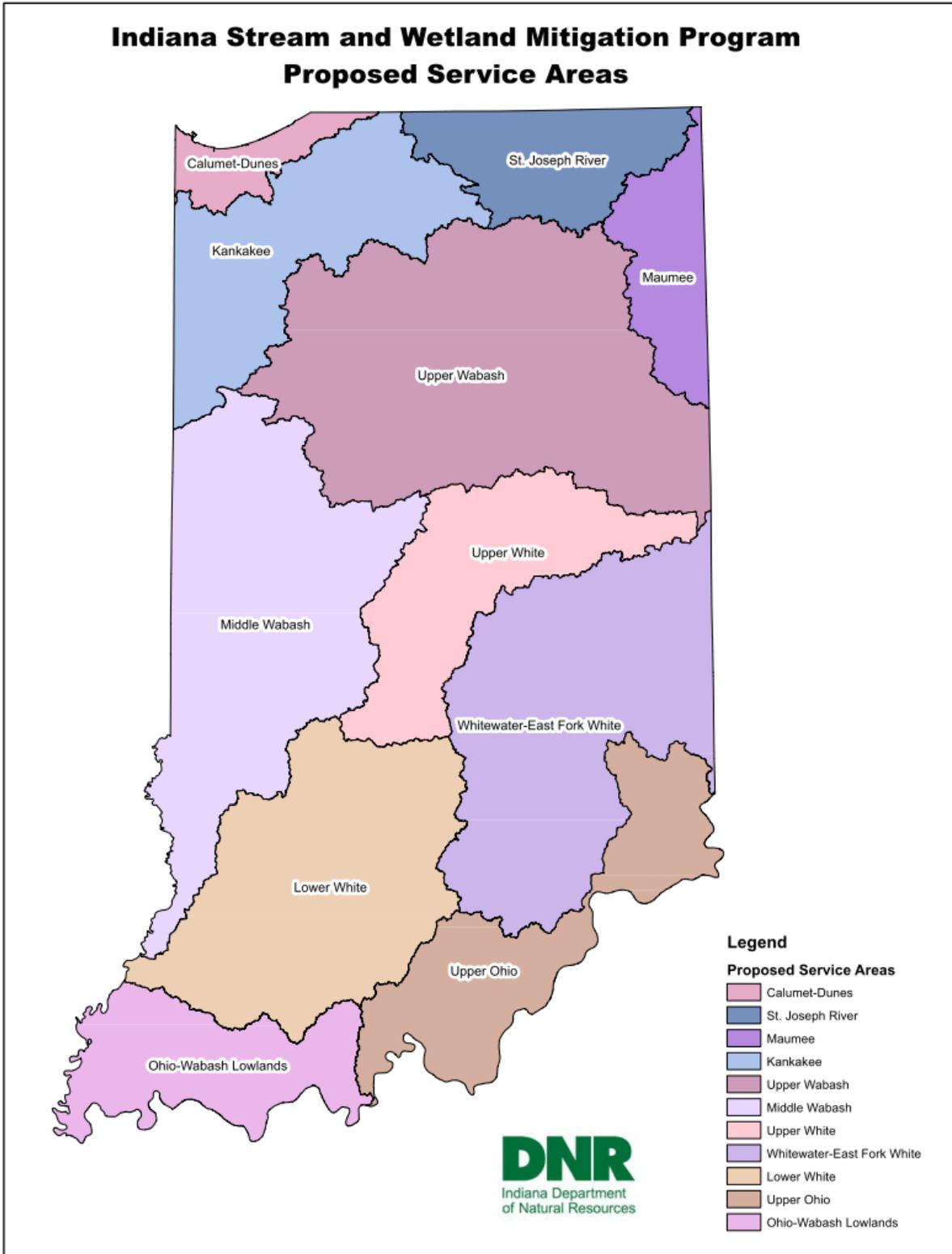


Figure 1: IN SWMP service areas.

IDNR ILF Program Public Notice
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 Figure 1 of 1.