

May 2, 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  
Environmental Management & Policy Committee

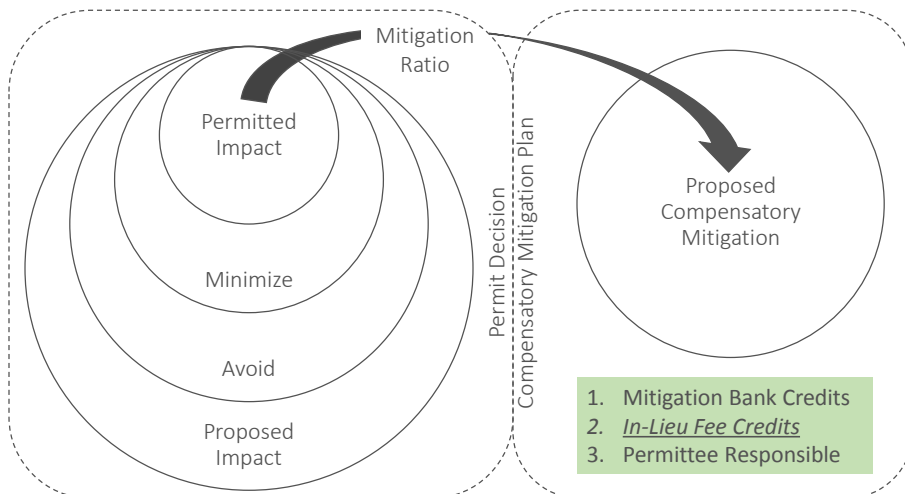


## Permitting Programs & IN SWMP

- 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?

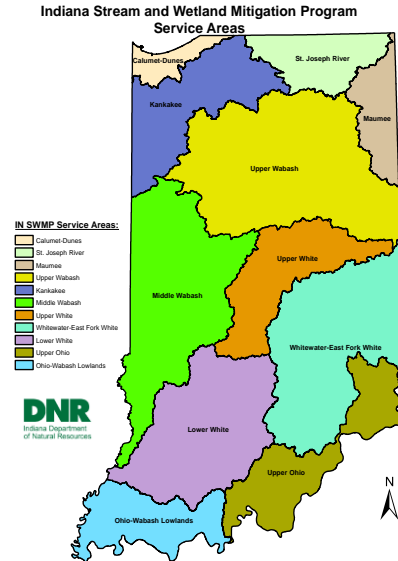
- *In-lieu fee (ILF) program*: restoration, establishment, enhancement, and/or preservation of aquatic resources through funds paid to a governmental or nongovernmental natural resource management organization.
- Permittee purchases credits from ILF sponsor
- Sponsor builds and maintains larger mitigation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



## Mitigation Process

## Purpose 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

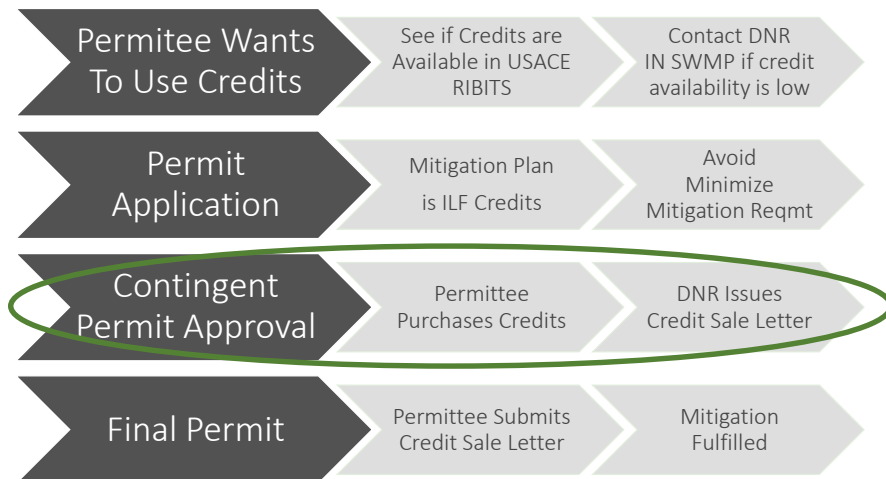


# How Does the program work?

## Credit Sales

- In-lieu fee programs sell “Advance Credits”
  - Each service area will have a specific allotment of advance wetland and stream credits available
- ILF projects will generate Released Credits to fulfill Advance Credits that have been sold

## Credit Sales





## 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



## DNR Credit Sale Process

Once you have final permits, you can contact DNR at [INSWMP-Inquiry@dnr.IN.gov](mailto: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.

[www.on.in.gov/inswmp](http://www.on.in.gov/inswmp)

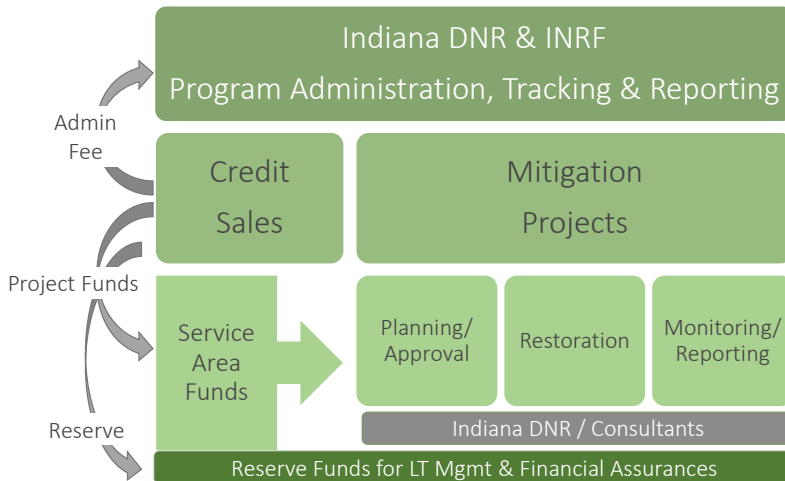


# DNR IN SWMP Website

[www.on.in.gov/inswmp](http://www.on.in.gov/inswmp)



## Program Management





## Credit Price Components

<u>Project Component</u>	<u>% of Credit Cost</u>
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



## 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



## Advanced 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



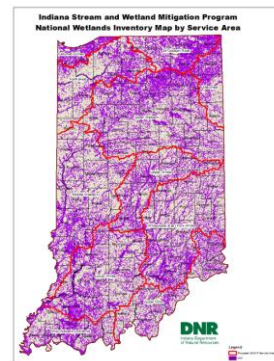
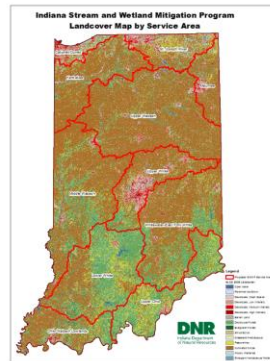
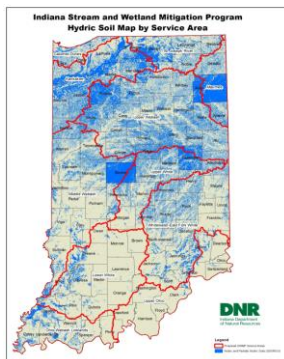
## Targeted Project Size\*

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.



## Mitigation Project Selection: Compensation Planning Framework

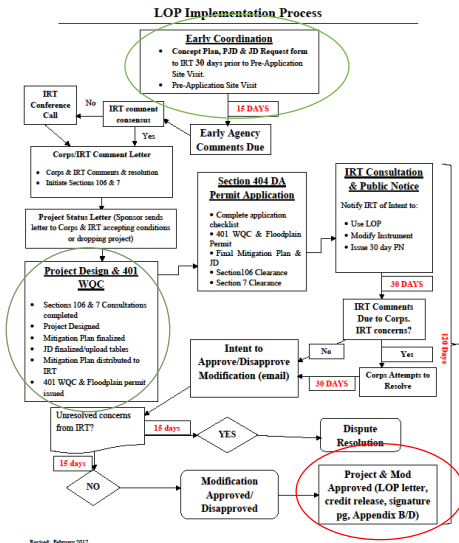


## Mitigation Project Selection: Compensation Planning Framework

- 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

## Letter of Permission Process (LOP)

Approval process for ILF projects  
(and Umbrella Mitigation Banking  
Instruments)



## 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 Generation

- In general credits generated by IN SWMP mitigation projects will be calculated according to the following schedule:
  - Restoration (Re-establishment) – 1 to 1
  - Restoration (Rehabilitation) – 0.6 to 1 thru 1 to 1
  - Establishment – 1 to 1 (at the time all ecological performance standards are met)
  - Enhancement – 0.1 to 1 thru 0.6 to 1
  - Riparian Habitat Enhancement – 0.2 to 1 thru 0.5 to 1
  - Preservation – 0.1 to 1
- The Corps and/or IDEM in consultation with the IRT may approve variances from the above ratio for specific IN SWMP projects.



## Credit Release Schedule

- 15% mitigation credit release after site protection and approved Section 404 permit;
- 5% additional mitigation credit release (20% cumulative) upon DE acceptance of “As Built” Report;
- 60% additional mitigation credit release (80% cumulative), divided equally for each year monitoring performance standards are met, not including final year of monitoring.
- 20% additional mitigation credit release (100 % cumulative) once the final performance standards have been met and when long term management plan and funding is in place and the DE has provided written release from monitoring to the Sponsor.



## Credit Sales, Receivables and Expected Sales to Date\*

Service Area	Wetland Credits	Stream Credits	Total Funds
Calumet-Dunes	2.88	0	\$273,600
Kankakee	4.05	385	\$577,250
St. Joseph	1.54	0	\$184,800
Maumee	0	0	\$0.00
Upper Wabash	0.83	1,370	\$614,400
Upper White	5.89	1,653	\$1,215,050
Middle Wabash	2.68	2,341	\$1,150,800
Whitewater-EFW	10.392	348	\$970,560
Lower White	0	0	\$0.00
Ohio-Wabash Lowlands	7.25	866	\$926,400
Upper Ohio	3.835	3,277	\$1,617,600
TOTAL	37.977	7,619	\$7,530,460



## Reporting

- Annual Reports – Feb 28<sup>th</sup> of each year for prior calendar year
  - 2018 Annual report is on our web site
- Monthly financial and credit ledger report – updated ledgers due by the 10<sup>th</sup> of each month
- Performance Monitoring Reports – Submitted as required by the project’s mitigation plan



## Contractors and IN SWMP

- IDOA Division of Public Works
  - Pre-certification required through IDOA PW for both “Consultant/Designer” and “Construction”
  - **Category: Wetland, Stream and Upland Restoration and Mitigation**
- Contractor tasks (IDOW PW and/or Prof Svcs):
  - Site ID; Conceptual Plans; delineations
  - Surveys; Design; Construction
  - Maintenance; Monitoring



## ILF Partnerships w/conservation partners

- **Potential for ILF to partner with other conservation programs/funding sources**
  - Federal funds and ILF funds can be used together on a project
    - Identify what each is program is funding
- **Acquisition and restoration of adjacent lands to existing holdings**
  - DNR land-holding divisions; federal agencies (NPS, USFWS, etc)
  - Local land trust organizations
  - Municipal parks departments



## 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 will be a challenge → vacation of drain**



## 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)



# Questions?

Carl Wodrich  
 Assistant Director  
 Division of Land Acquisition  
 317-232-1291  
[cwodrich@dnr.IN.gov](mailto:cwodrich@dnr.IN.gov)

## IN SWMP Mitigation Specialists:

Brad Baldwin (North) – 317-234-9702  
[bbaldwin@dnr.IN.gov](mailto:bbaldwin@dnr.IN.gov)

David Carr (South) – 317-234-9703  
[dcarr@dnr.IN.gov](mailto:dcarr@dnr.IN.gov)

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

## Indiana Stream and Wetland Mitigation Program (IN SWMP)

<https://on.in.gov/inswmp>  
 INSWMP.Inquiry@dnr.in.gov

### IN SWMP Staff

**Carl Wodrich**  
 Assistant Director  
 Division of Land Acquisition  
 317-232-1291  
[cwodrich@dnr.in.gov](mailto:cwodrich@dnr.in.gov)

**Calumet-Dunes  
 Service Area**



**Brad Baldwin**  
 Mitigation Specialist  
 317-234-9702  
[bbaldwin@dnr.in.gov](mailto:bbaldwin@dnr.in.gov)

### North



**David Carr**  
 Mitigation Specialist  
 317-234-9703  
[dcarr@dnr.in.gov](mailto:dcarr@dnr.in.gov)

### South



### IN SWMP Service Areas

Calumet-Dunes  
 St. Joseph River  
 Maumee  
 Kankakee  
 Upper Wabash  
 Middle Wabash  
 Upper White  
 Whitewater-East Fork White  
 Lower White  
 Upper Ohio  
 Ohio-Wabash Lowlands

