

Indiana Stream and Wetland Mitigation Program (IN SWMP) and DNR In-Lieu Fee Program

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

What is an In-Lieu Fee Mitigation Program?

- **IN SWMP** approved on May 3, 2018
- *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 in-lieu of the permittee completing mitigation themselves
- Permittee purchases credits from an approved 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.

Permitting Programs & Mitigation

- Army Corps of Engineers – regulations under:
 - Section 10 Harbors Act
 - Section 404 of Clean Water Act (CWA)
 - IN SWMP MUST FOLLOW 2008 Federal Mitigation Rule & our program instrument
- 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

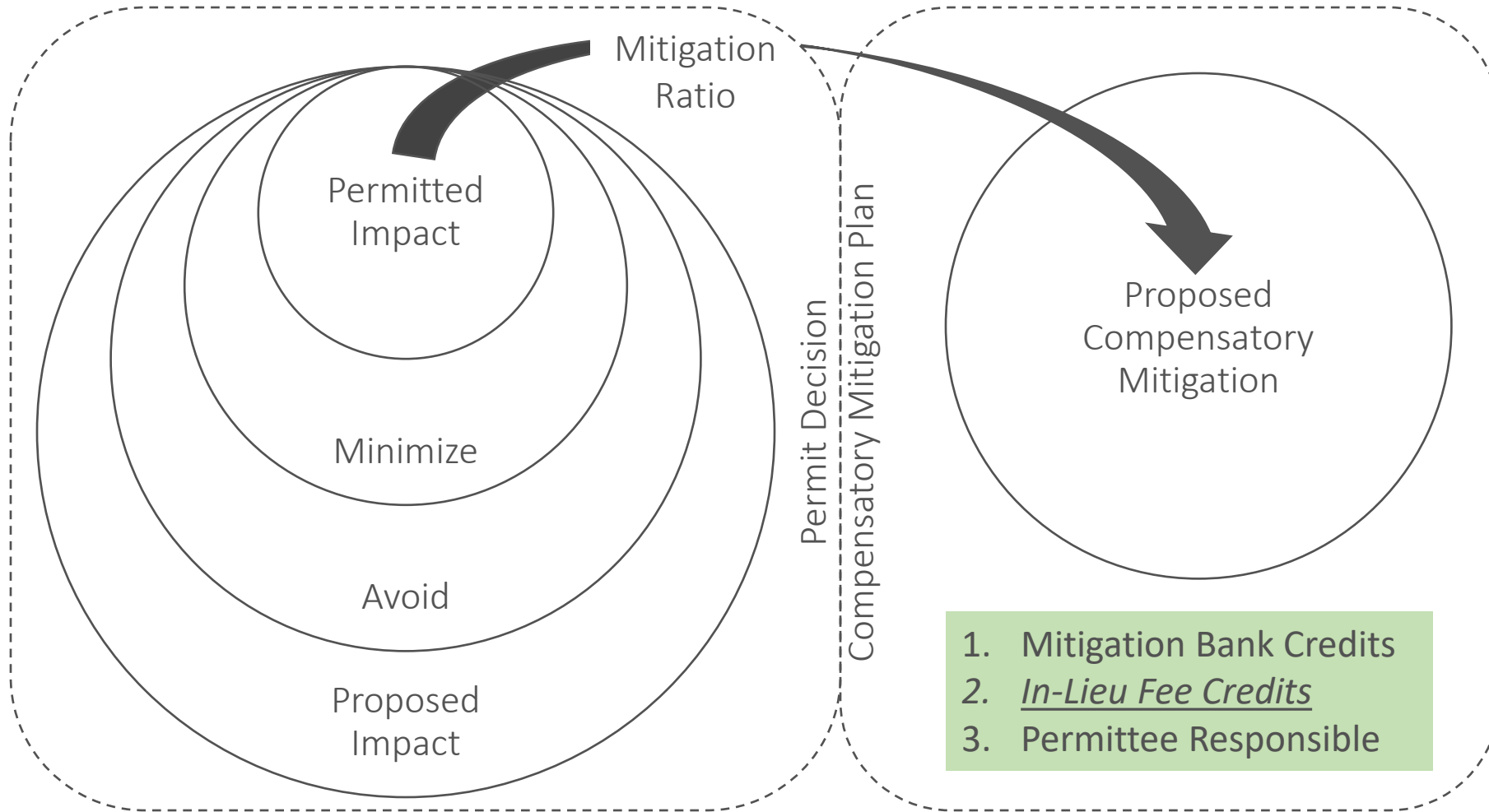
IN SWMP

ILFP

Sources of Mitigation

- Mitigation bank: provide/*build* 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”)
- Permittee-responsible mitigation: Individual projects constructed by permittees to provide compensatory mitigation for activities authorized by permits.
- In-lieu fee programs: provide/*build* 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 that can be sold
 - ILF projects will generate “released credits” that will fulfill advance credits sold

Mitigation Process



Purpose & Benefits of the Program

- Consolidate Mitigation
 - Gain Efficiencies / Increase Ecological Significance
 - Prioritization of potential projects using Compensation Planning Framework
- Integrate other conservation efforts
 - DNR & Conservation Partners
- Provides specific costs of mitigation for applicants
- Shortens project timeframes for permittees
- Reduces the national average permitting timelines for 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 & EPA: Mitigation Rule Retrospective Factsheet, 2010-2014 Permit Data

IN SWMP Service Areas

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

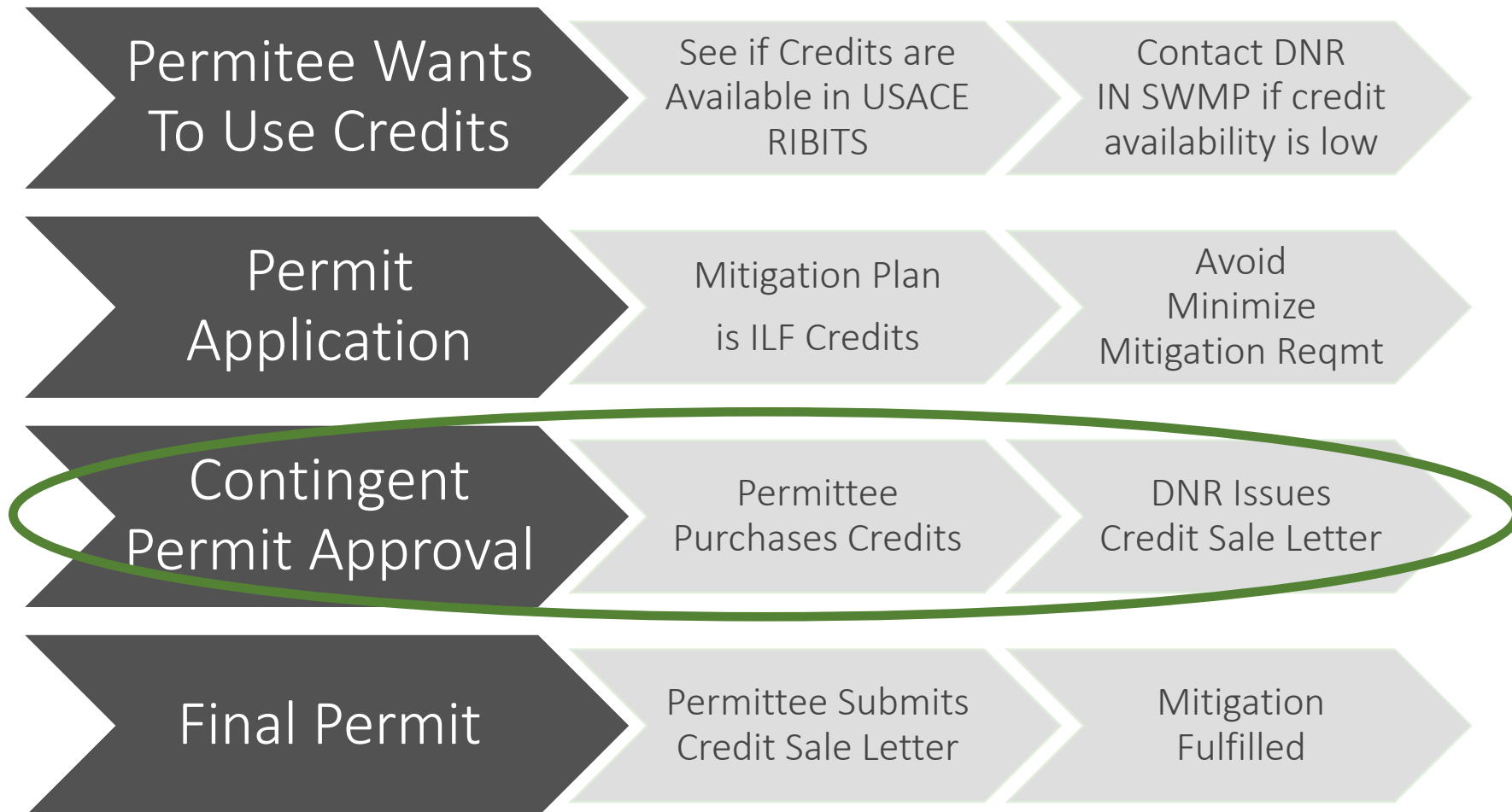
DNR In-Lieu Fee Program

- In-lieu Fee (ILF) Rule at 312 IAC 9.5-3-1, 2014.
- Flood Control Act, Lake Preservation Act, and Navigable Waters Act.
- Mitigation and resolve violations.
- Mitigation banks do not exist for DNR permits.
- Non-rule Policy Document (Information Bulletin #79) discusses use of ILF, approved May 19, 2020.

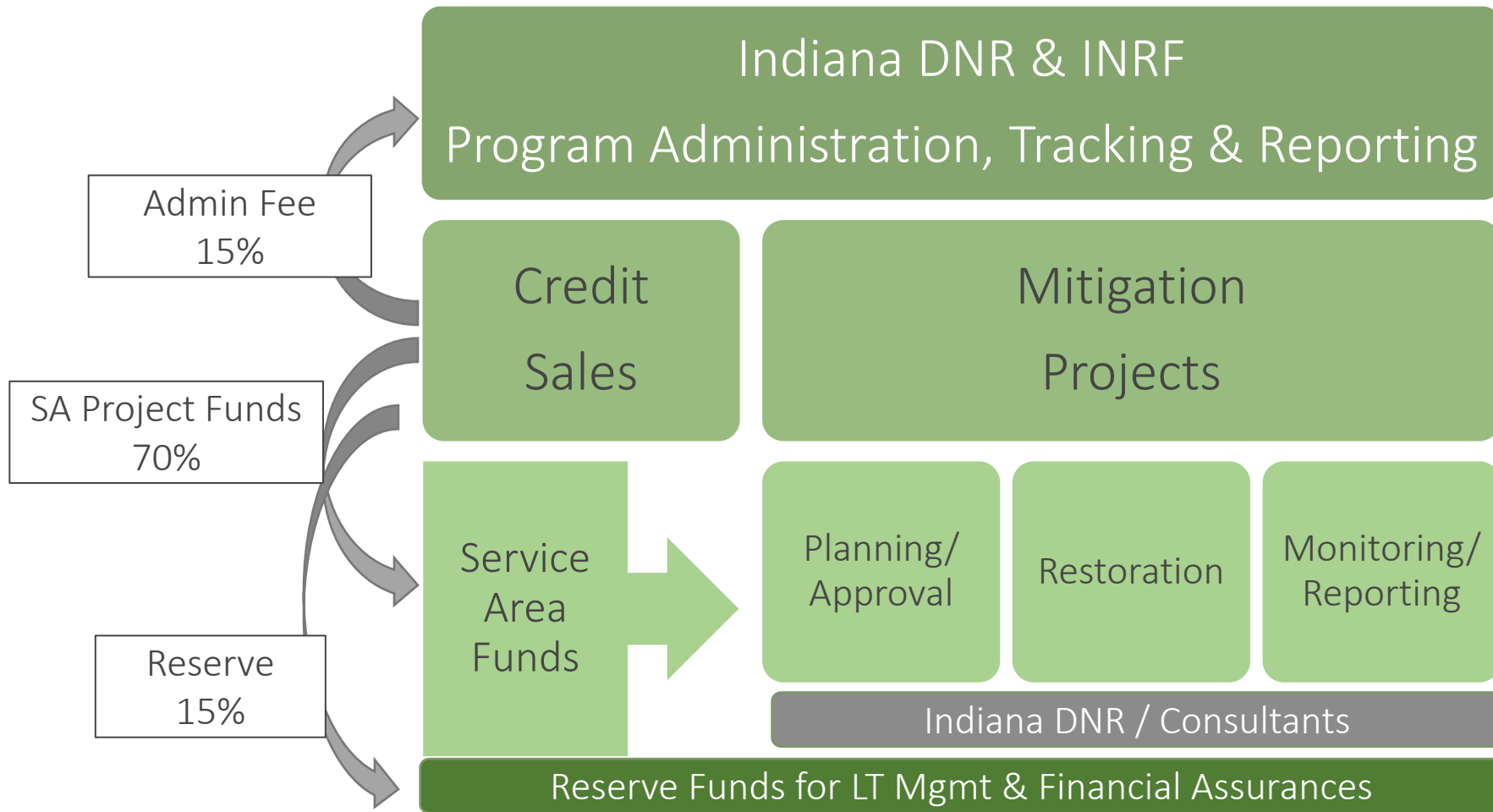
Stream, Wetland and Floodway Credits

- 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 and the Permit Process



Program Management



Credit Price Components

<u>Project Component</u>	<u>% of Credit Cost</u>
Land Acquisition/Protection	
Engineering Design/Plan Development/PM	
Financial Assurances	
Construction	
Monitoring / Adaptive Management	
Long Term Management	
Contingencies	
IN SWMP Administration Costs	

*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 Allocation

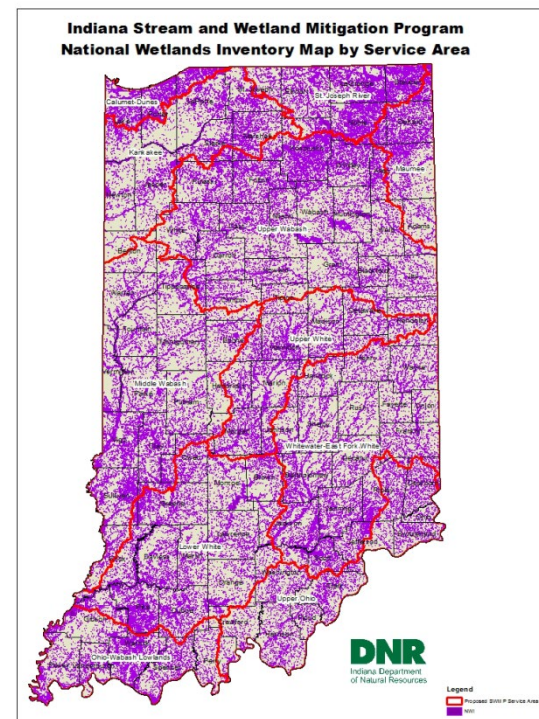
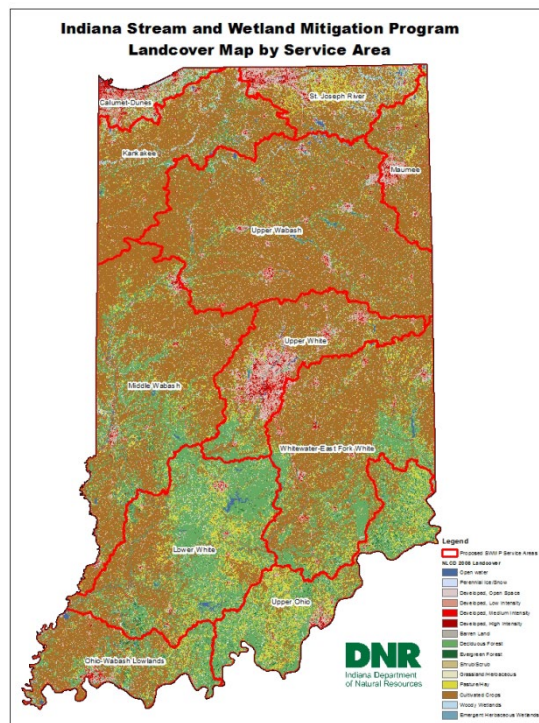
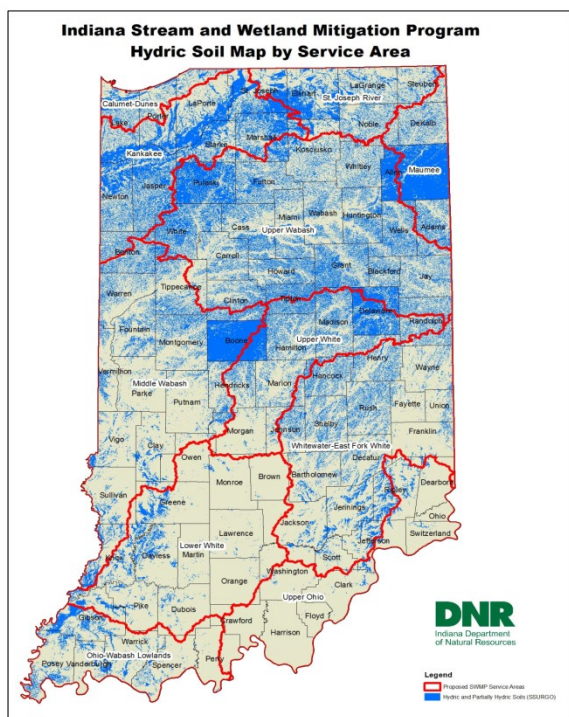
Service Area	Wetland Credits	Stream Credits
Calumet-Dunes	90	45,000
St. Joseph River (Lake MI)	90	45,000
Maumee	90	45,000
Kankakee	90	45,000
Upper Wabash	90	45,000
Middle Wabash	90	45,000
Upper White*	162	81,000
Whitewater-East Fork White	90	45,000
Lower White	90	45,000
Upper Ohio	90	45,000
Ohio-Wabash Lowlands	115	50,000

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

Determination of Advanced ILF Credits

- Analysis of 404 Permits requiring stream and/or wetland mitigation from 2009-2015
- Analysis of IDEM State Isolated Wetland Permits requiring mitigation from 2006-2013
- Ducks Unlimited developed a “Business Model” based on numerous variables to include Corps and IDEM mitigation data to determine proposed advanced credits per Service Area and Credit Prices (Full Cost Accounting)

Compensation Planning Framework



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

Federal Mitigation Rule: 11 Elements

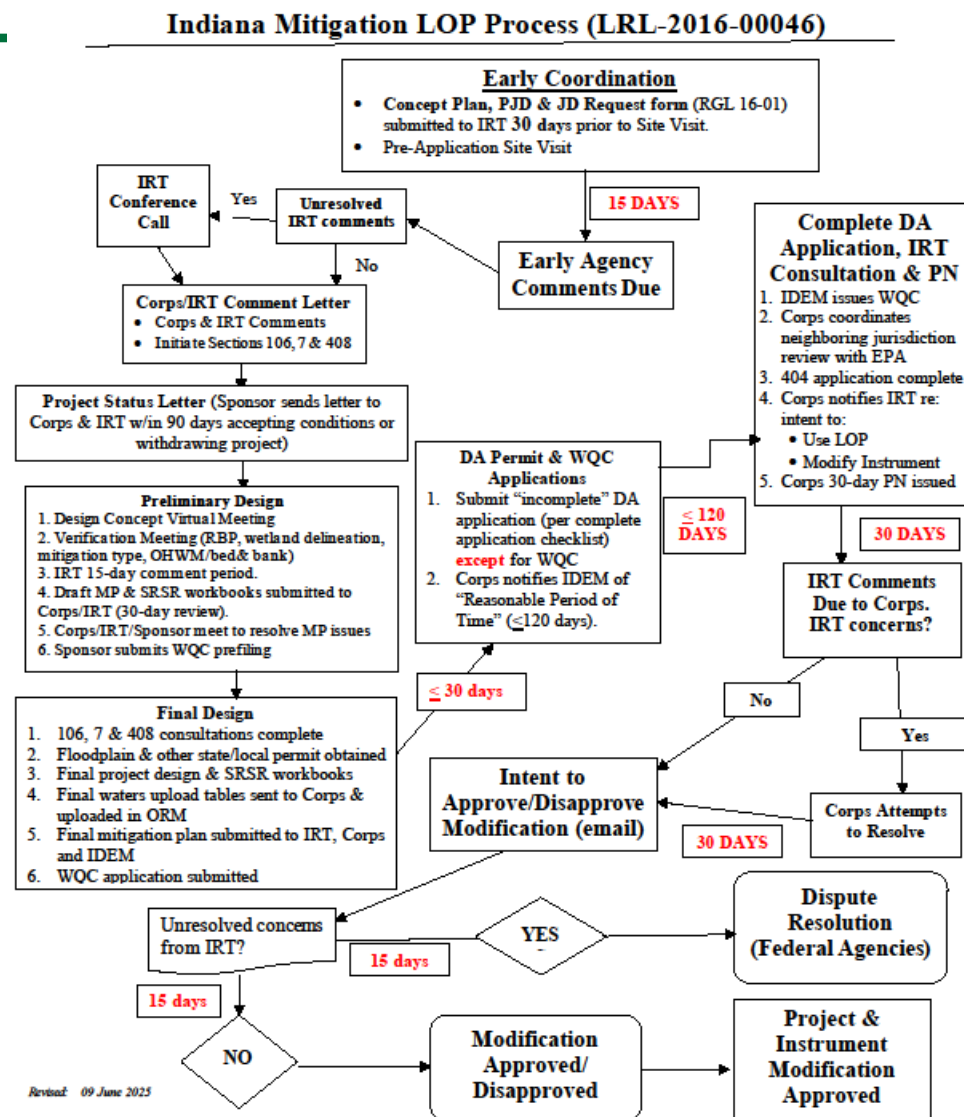
- (i) The geographic **service area(s)**, including a watershed-based rationale for the delineation of each service area;
- (ii) A description of the **threats to aquatic resources** in the service area(s), including how the in-lieu fee program will help offset impacts resulting from those threats;
- (iii) An analysis of **historic aquatic resource loss** in the service area(s);
- (iv) An analysis of **current aquatic resource conditions** in the service area(s), supported by an appropriate level of field documentation;
- (v) A statement of **aquatic resource goals and objectives** for each service area, including a description of the general amounts, types and locations of aquatic resources the program will seek to provide;
- (vi) A **prioritization strategy** for selecting and implementing compensatory mitigation activities;

CPF Elements...

- (vii) An explanation of how any **preservation objectives** identified in paragraph (c)(2)(v) of this section and addressed in the prioritization strategy in paragraph (c)(2)(vi) satisfy the criteria for use of preservation in §332.3(h);
- (viii) A description of any **public and private stakeholder involvement** in plan development and implementation, including, where appropriate, coordination with federal, state, tribal and local aquatic resource management and regulatory authorities;
- (ix) A description of the **long-term protection and management strategies** for activities conducted by the in-lieu fee program sponsor;
- (x) A strategy for **periodic evaluation and reporting on the progress** of the program in achieving the goals and objectives in paragraph (c)(2)(v) of this section, including a process for revising the planning framework as necessary; and
- (xi) **Any other information** deemed necessary for effective compensation planning by the district engineer.

Letter of Permission Process (LOP)

Approval process for ILF projects
In Indiana



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
 - Preliminary Design > DRAFT Mitigation Plan > Final Mitigation Plan > Permitting
3. Construction of project
4. Monitoring & Maintenance (7-10+ 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 – 100% of Preservation Credits
- 15% additional mitigation credit release (30% cumulative) upon DE acceptance of “As Built” Report;
- 50% 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.

Reporting

- Annual Reports – Feb 28th 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 10th of each month
- Performance Monitoring Reports – Submitted as required by the project's approved mitigation plan

- 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
 - Operating similar to Artisan Category of contracting
- Consultant Services:
 - Site ID; Real Estate Services, Resource Assessments, Delineations, Conceptual Plans;
 - Surveys, Design, Construction
 - Maintenance, Monitoring and Reporting

ILF Conservation Partnerships

- Each project needs a long-term management entity
 - IN SWMP is not a land-holding Division of DNR
- Potential for ILF to partner with other conservation programs/funding sources
 - Federal funds and ILF funds can be used together on a project with considerations
 - 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.)
 - Indiana Land Trusts
 - Municipal or County Parks Departments

Benefits and Challenges

- Ownership of IN SWMP projects
 - DNR, land trusts, local gov't parks departments
 - DNR holds CEs on property when we do not own in title
 - Long-Term Management Funding
 - Site protected, maintained and inspected in perpetuity
- ILF Program and Project Restrictions
 - Real estate due diligence: Clear Title and Appraised Value
 - All projects will require real estate restrictions (CE or deed restrictions)
 - Legal Drains are a challenge → vacation of drain
 - Credit Demand
 - Full Cost Accounting

Construction of ILFP Sites

- Funds from credit purchase will be used to restore floodway habitat.
- Likely link other habitats and mitigation sites.
- Sites will be monitored for tree and plant survival.



Threats to Aquatic Resources

- Habitat conversion
- Habitat alteration
- Habitat fragmentation
- Habitat degradation
- Aquatic resource loss
- Altered surface and groundwater hydrology
- Increased and accelerated erosion and sedimentation
- Stream channelization
- Stream instability
- Loss and/or impairment of aquatic system functions and services
- Point source pollution
- Non-point source pollution
- Invasive and non-native species

Targeted Stream Restoration Projects

- Poor functioning, impacted streams, channelized, eroded, incised, widened, etc.
- Disconnected from the floodway/floodplain, lack of flood water attenuation
- Minimal riparian area, invasive species
- Lack of quality fish and wildlife habitat (structural integrity)
- water quality issues
- High ranking conservation opportunities, etc.



Targeted Wetland Restoration Projects

- Historically tiled, drained, and impacted wetlands
- Adequate hydrology, frequently flooded sites
- Hydric soils, Hydric Inclusions, etc.
- Meets the watershed/landscape approach
- EX: marginal agricultural land, altered sites due to anthropogenic impacts, etc.



IN SWMP HC Farms – Hamilton County Parks and Recreation

Stream Credits: 5,871

Stream Channel: 11,155 linear Feet

Wetland Credits: 17.64

Existing Wetland: 2.18

Contract Costs to date:

Conservation Easement: \$800,000

Conceptual Assessments and Plan: \$92,500

Design and Permitting: \$123,723

Construction: \$1,391,923

Year 1 – 3 Monitoring and Reporting: \$99,500

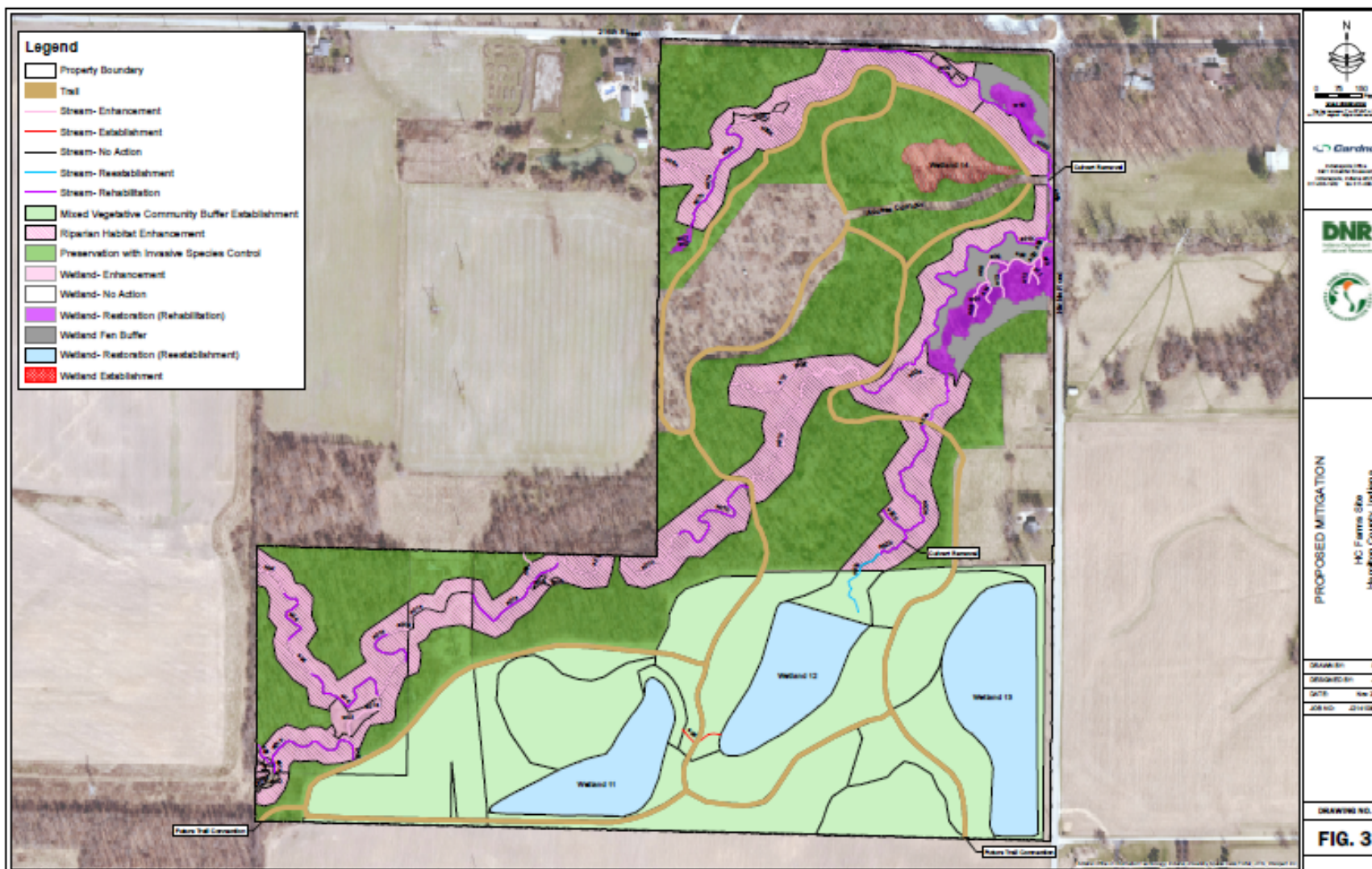
Long-Term Management Fund: \$303,886

Future Maintenance Cost are variable – TBD

Administrative Fund: Staff salaries



IN SWMP – HC Farms Stream and Wetland Restoration Project



IN SWMP HC Farms



HC Farms Planting



HC Farms – Year 2 Growing Season



IN SWMP Projects Status

IN SWMP Project	Service Area	Corps District & ID Number	Conservation Partner	Project Phase	Submittal Completed	Stream Credits*	Wetland Credits*
HC Farms	Upper White	Louisville - LRL-2020-00989-sam	Hamilton County Parks	Approved - Monitoring and Maintenance	Constructed	5,871	17.64
Fall Creek Woods	Upper White	Louisville - LRL-2021-552-sam	Red-tail Land Conservancy	Approved - Monitoring and Maintenance	Constructed	2,330	27.13
Conner Prairie	Upper White	Louisville - LRL-2023-458-sam	Conner Prairie	Pending - Preliminary Design Submittal	Conceptual	7,596.25	36.6
Heath Ditch	Upper White	Louisville - LRL-2023-938-sam	Fishers Parks	Pending - Preliminary Design Submittal	Conceptual	6.696	0.138
Ritchey Woods	Upper White	Louisville - LRL-2023-936-sam	Fishers Parks	Pending - Preliminary Design Submittal	Conceptual	4,030	2
Carpenter Nature Preserve	Upper White	Louisville - LRL-2023-459-sam	Zionsville Parks	Pending - Preliminary Design Submittal	Conceptual	10,544.60	0
Crooked Creek	Upper White	Louisville - LRL-2025-00482	Indy Parks - Marian University	Pending - Conceptual Plan IRT Comments	Conceptual	6,982	11.8
Summit 281 - Upper White	Upper White	Louisville - LRL-2025-00531	DNR - Fish, Wildlife and Nature Preserves	Pending - Conceptual Plan IRT Meeting	Conceptual	TBD	90+/-
McClain	Middle Wabash	Louisville - LRL-2022-590-sam	DNR - Fish, Wildlife and Nature Preserves	Pending - 404 Final Approval	Final Mitigation Plan	539.2	22.023
CILTI Rogers - TNC	Middle Wabash	Louisville - LRL-2025-00535	CILTI and TNC	Pending - Conceptual Plan Submittal		2,421	4.6
Buskirk	Lower White	Louisville - LRL-2025-00483	Sycamore Land Trust	Pending - Conceptual Site IRT Meeting	Conceptual	4,886	10.9
Bear Lake	Lower White	Louisville - LRL-2025-00536	Sycamore Land Trust	Pending - Conceptual Plan Submittal		TBD	TBD
Riverside	Whitewater-East Fork White	Louisville - LRL-2023-118-sam	Rushville Parks	Pending - DRAFT Mitigation Plan	Preliminary Design	258	25.91
Summit 281 - WVEFW	Whitewater-East Fork White	Louisville - LRL-2025-00532	DNR - Fish, Wildlife and Nature Preserves	Pending - Conceptual Plan IRT Meeting	Conceptual	TBD	90+/-
Grassy Creek	Whitewater-East Fork White	Louisville - LRL-2025-00533	Indy Parks - DPW	Pending - Conceptual Plan Submittal		TBD	TBD
Butlerville	Whitewater-East Fork White	Louisville - LRL-2025-00534	DNR - Fish, Wildlife and Nature Preserves	Pending - Real Estate Due Diligence		TBD	TBD
Shelton Farms	Upper Ohio	Louisville - LRL-2022-730	Private Property Owner	Pending - DRAFT Mitigation Plan	Preliminary Design	10,830.32	23.81
Morenz	Upper Ohio	Louisville - LRL-2025-00538	Cardinal Land Conservancy	Pending - Real Estate Due Diligence		TBD	TBD
Chandler	Ohio-Wabash Lowlands	Louisville - LRL-2023-00981-sam	Town of Chandler	Pending - DRAFT Mitigation Plan IRT Comments	DRAFT Mitigation Plan	1,475	22.4
Hopf	Ohio-Wabash Lowlands	Louisville - LRL-2025-00537	DNR - Fish, Wildlife and Nature Preserves	Pending - Conceptual Plan Submittal		TBD	TBD
Buss Conservation Area	Upper Wabash	Louisville - LRL-2023-983	DNR - Nature Preserves	Pending - DRAFT Mitigation Plan	Preliminary Design	6,850.70	39.2
Engquist Addition	Calumet-Dunes	Chicago - LRC-2021-850	SHLT	Pending - Preliminary Design Submittal	Conceptual	0	36.78
Swisher-Carlson	Calumet-Dunes	Chicago - To Be Assigned	SHLT	Pending - Conceptual Plan Submittal		2,000 +/-	30 +/-
Oak Ridge Prairie	Calumet-Dunes	Chicago - To Be Assigned	Lake County Parks	Pending - Conceptual Plan Submittal		0	40 +/-
Bluhm County Park	Kankakee	Detroit - LRE-2023-00699-146	LaPorte County Parks	Pending - DRAFT Mitigation Plan	Preliminary Design	5,649	15.82
Baintertown Dam	St. Joseph	Detroit - LRE-2006-1200330-M25	Elkhart County Parks	Pending - Preliminary Design Submittal	Conceptual	TBD	TBD
Marl Place	St. Joseph	Detroit - LRE-2024-00022-176	Scouts of America	Pending - 401 and 404 Approvals	Final Mitigation Plan	0	15.43
Pierson Drain	Maumee	Detroit - LRE-2024-00496-102	City of Fort Wayne	Pending - Preliminary Design Submittal	Conceptual	4,810	0

*Stream and Wetland Credit Generation Preliminary until Final Mitigation Plan Approval
Updated 8/27/2025

Questions?

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

Indiana Stream & Wetland Mitigation Program (IN SWMP)
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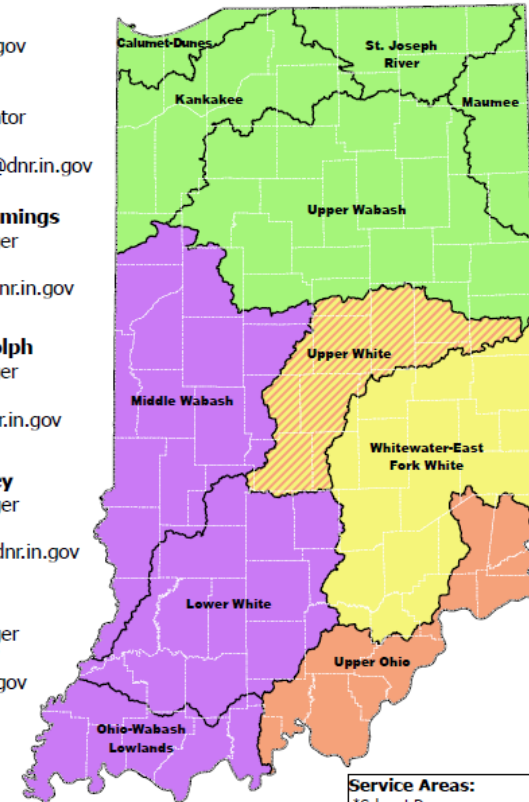
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