



Public Notice

**U.S. Army Corps
of Engineers**
Pittsburgh District

In Reply Refer to
Notice No. below

US Army Corps of Engineers, Pittsburgh District
1000 Liberty Avenue
Pittsburgh, PA 15222-4186

Application No. 2013-556

Date: July 5, 2013

Notice No. 13-29

Closing Date: August 7, 2013

1. **TO ALL WHOM IT MAY CONCERN:** The following Rehe wetland preservation project has been submitted by the West Virginia Department of Environmental Protection (WVDEP) for approval under the West Virginia In-Lieu Fee Program (WVILFP).
2. **APPLICANT:** Glenn McLernon
WV In-Lieu Fee Coordinator (Stream and Wetland Mitigation)
West Virginia Department of Environmental Protection
601 57th Street, SE
Charleston, WV 25304
3. **LOCATION:** The Rehe wetland preservation project is located located within the Tygart Valley Primary Service Area in Arthurdale and Reesville, Preston County, West Virginia.
4. **PURPOSE AND DESCRIPTION OF WORK:** The WVDEP proposes to purchase the Rehe property as an ILF wetland preservation project which includes the protection of 98 acres of wetland and 104 acres of associated upland buffer, located near Arthurdale and Reesville, Preston County, West Virginia. The Rehe ILF project is expected to generate approximately 14 wetland credits (9.42 POW, 3.66 PEM, and .94 PFO). Please see attached mitigation site plan.
5. **WEST VIRGINIA CERTIFICATION:** The West Virginia Department of Environmental Protection is not required to issue 401 Water Quality Certification as a 404 Department of the Army permit is not required.
6. **IMPACT ON NATURAL RESOURCES:** The District Engineer has consulted the most recently available information and has determined that the project will have no effect on endangered species or threatened species, or result in destruction or adverse modification of habitat of such species which has been determined to be critical. While concurrence with this determination is not required, this Public Notice serves as a request to the U.S. Fish and Wildlife Service for any additional information they may have on whether any listed or proposed to be listed endangered or threatened species may be present in the area which would be affected by the activity, pursuant to Section 7(c) of the Endangered Species Act of 1972 (as amended).

7. IMPACT ON CULTURAL RESOURCES: No impact to historic and archeological resources is anticipated as this project will not require earth disturbance. The National Register of Historic Places has been consulted, and it has been determined that there are no properties currently listed on the register which would be directly affected by the proposed work. If we are made aware, as a result of comments received in response to this notice, or by other means, of specific archeological, scientific, prehistorical, or historical sites or structures which might be affected by the proposed work, the District Engineer will immediately take the appropriate action necessary pursuant to the National Historic Preservation Act of 1966 - Public Law 89-665 as amended (including Public Law 96-515).

8. PUBLIC INVOLVEMENT: Any person may request, in writing, within the comment period specified in the paragraph below entitled "RESPONSES," that a public hearing be held to consider this proposed West Virginia In-Lieu Fee Project. The requests for public hearing shall state, with particularity, the reasons for holding a public hearing.

9. EVALUATION: Interested parties are invited to state any objections they may have to the proposed WVILF project.

10. RESPONSES: This project will be authorized under the existing WVILF Instrument unless its issuance is found to be contrary to the public interest. Written statements concerning the proposed activity should be received in this office on or before the closing date of this Public Notice in order to become a part of the record and to be considered in the final determination. Any objections which are received during this period may be forwarded to the applicant for possible resolution before the determination is made whether to approve as an ILF project. All responses to this notice should be directed to the Regulatory Branch, attn Donald Bole at the above address, by telephoning (412) 395-7576, or by e-mail at Donald.R.Bole@usace.army.mil Please refer to File 2013-556 in all responses.

FOR THE DISTRICT ENGINEER:

/SIGNED/ by Nancy Mullen for

Jon T.Coleman
Chief, Southern Section
Regulatory Branch

Mitigation Plan for Rehe In-Lieu Fee Project

1. Introduction.

The Rehe property is 637.50 acres consisting of open water wetlands, PEM wetlands, and forested wetlands. The property also has a significant mature upland forest and lesser amounts of pasture/old fields. The wetlands were formed by a combination of an existing NRCS flood control impoundment (under PRIVATE ownership) and pre-law coal mining operations. The wetland areas with a 200 LF buffer are approximately 202.3 acres. The primary method of compensation will be preservation of the existing wetlands.

2. Objectives.

The West Virginia Division of Natural Resources (WVDNR) is under negotiations with the current landowner to purchase the property. The WVDNR approached the ILF program offering a cooperative agreement in which the ILF would “purchase” the wetlands and 200 LF buffer for compensatory mitigation obligations that the ILF had assumed responsibility. The WVDNR will immediately assume the long term stewardship for the property. According to Chapter 20 of the West Virginia State Code it is the policy of the State that wildlife resources shall be protected for the use and enjoyment of all of the citizens of this state. Once the parcel is under control of the WVDNR they will manage the area for the benefit to the citizens of the state. WVDNR will assign a wildlife manager to the area to maintain the area and enforce the proper use of the area. Their management strategies will include reasonable public access for the primary purposes of hunting and fishing but also provide for non-consumptive outdoor recreation such as bird watching. Access will primarily be restricted to foot traffic. Management strategies may also include limited control of invasive species. They have agreed to maintain and protect all wetlands on the site and their management of the area will not degrade any of the jurisdictional wetlands that are currently on the parcel.

The area has high potential and capacity to provide flood control, wildlife habitat and recreational values. The project is located in the number “2” secondary geographical service area for the ILF program. The area is in relatively close proximity of Morgantown thus providing the Wildlife Management Area network a valuable new addition to public lands. Below is the breakdown of wetland types based on interpretations from NWI mapping, color inferred photography, and aerial photography during the growing season. These interpretations are also supported by field data and observations during the development of the WV Wetland Rapid Assessment Protocols.

3. Site selection.

The Rehe site is in close proximity of Morgantown and therefore was considered by DNR as a highly desirable parcel for acquisition due to its potential to provide outdoor recreational opportunities for a significant number of people. The lower open water impoundment is a NRCS flood control impoundment that remained in private ownership (NRCS flood control impoundments are typically under public ownership). Thus the flood control aspect of the property is obvious. The wetland cells up valley of the flood control impoundment are shallow with significant PEM and forested fringes. The site has relatively high habitat value for a variety of wetland dependent species. It was determined that this site would be a valuable addition to our public lands when the current owners expressed an interest in selling the property to the state. The ILF program had monies available for mitigation projects in the service area. It was determined that preservation of the wetlands on the site was a legitimate use for those funds. Therefore, the ILF program was approached to fund the acquisition of the wetlands and 200 lf buffer and the DNR would purchase the remaining uplands. The DNR purchase of significant uplands only adds to the wetland value of the site at no cost to the ILF program.

4. Site protection instrument.

As stated previously the entire 637.5 acres will be under state ownership and become a Wildlife Management Area. The DNR will assign an Area Manager to the property that will maintain the area and enforce all regulations concerning proper use of the area (Wildlife Managers are Special Conservation Police Officers with arrest authority). Regulations prohibit ATV use, horses, cutting of vegetation, trespass, harassment of wildlife, littering, and other applicable laws and regulations. Given that DNR will have a manager assigned to the new WMA it is our opinion that "site protection" on this area will be far superior to the vast majority of standard conservation easements on a typical mitigation project.

5. Baseline information.

The total area of the property is 637.5 acres. Of that 97 acres are wetlands. There are approximately 47 acres of PUB, 36 acres PEM, and 14 acres of FOR wetlands on the Rehe site based on photo interpretation, GIS data layers, and WVRAP data. There is approximately 6000 LF of stream channel that can be delineated via aerial photography meandering through the PEM/FOR wetlands and draining the upland forest. The down valley wetland cell is a NRCS flood control impoundment and the up valley cells are artifacts of pre law mining activities.

Wetland	PEM	FOR/Shrub	PUB	Total
				0
A	5.56	1	5.34	11.9
B	9.9	2.6	1.8	14.3
C	12.9	4.5	17.4	34.8
D	8	6	12	26
E			10.6	10.6
Total	36.36	14.1	47.14	97.6

Fig 1. Excel spreadsheet showing approximate acres of wetland types on the Rehe site based on the site visit, aerial interpretation, and GIS data layers.

PEM Palustrine Emergent

FOR Forested/ Shrub Scrub

PUB Palustrine Unconsolidated Bottom

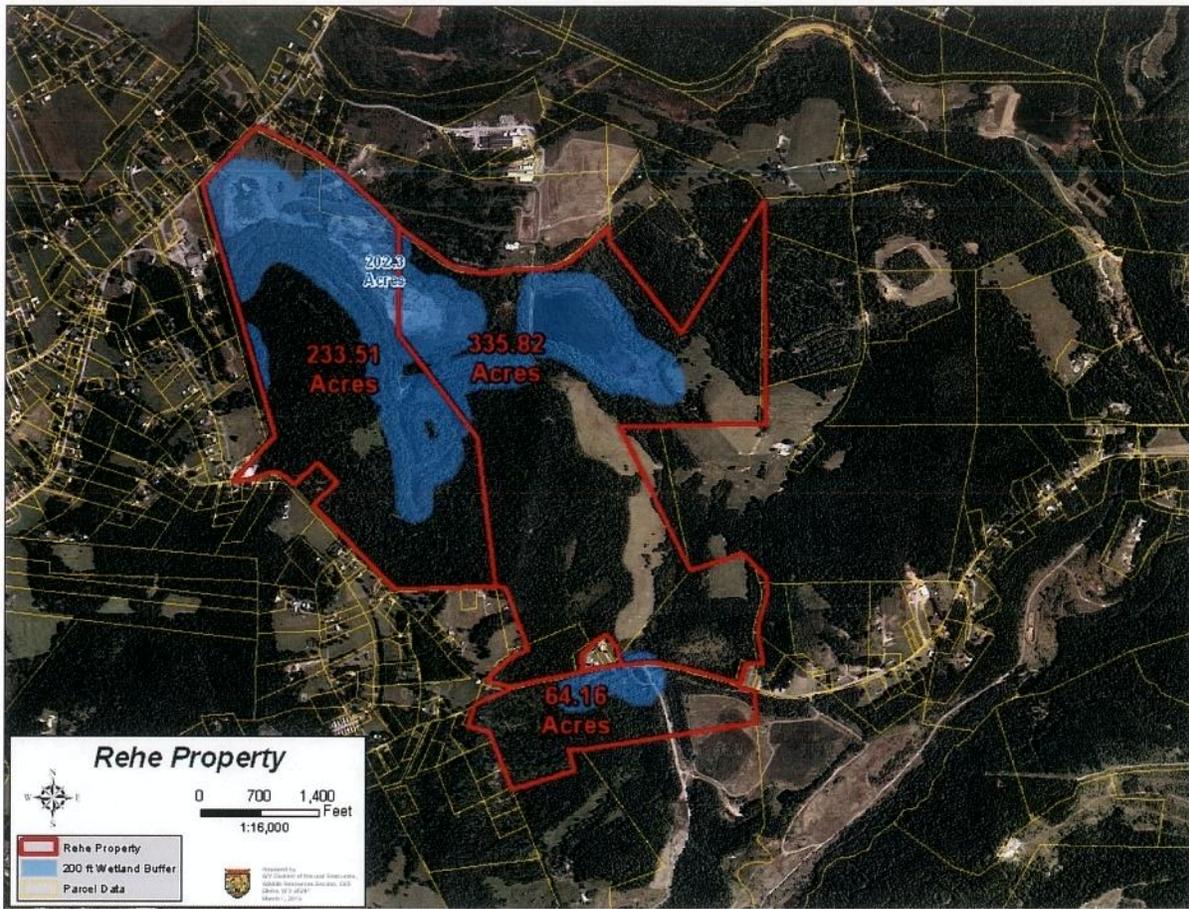


Fig.2 Map showing approximate boundary of ILF purchase and total area of the WMA.



Fig 3. Location map showing the location of the proposed WMA and its close proximity to the towns of Arthurdale and Reedsville



Fig 4. Google Earth Image taken in June 2009. Aquatic vegetation covers a significant portion of the wetland cells.

6. Determination of credits.

The project will receive funds from four permitted wetland/stream impacts totally 2.13 acres of wetland and approximately 1087 lf of stream fill. The DNR has requested funding assistance from the ILF program to purchase the property. Credits for the ILF program will be generated by the permanent protection of wetlands and streams present on the site. When these funds were collected the accepted method to determine adequate compensation was based on simple ratios. Applicants were required to preserve wetlands at a 5:1 (PUB), 10:1 (PEM), or 15:1 (FOR). Preservation of stream channels was handled on a case by case basis. The project will preserve approximately 97 total acres of wetlands for a ratio of 45:1. Stream impacts will be mitigated at 5.5:1. Given that the project is generating far more wetland and stream “credits” than required to compensate for the impacts the ILF program believes that the proposed project more than adequately compensates for the impacts. The ILF program does not wish to “bank” any excess credits in order to “clear” the books of mitigation obligations that are under the old ILF program’s funding and credit determination protocols.

7. Mitigation work plan.

The work plan is to purchase the property and maintain it as a Wildlife Management Area.

8. Maintenance plan.

This is a preservation project therefore we do not anticipate any specific maintenance activities. The DNR will have a Wildlife Manager that will patrol the area regularly to discourage unauthorized activities on the WMA. If invasive species control is deemed necessary the ILF program has funding mechanisms available for use.

9. Performance standards.

The project is a preservation project. The project is currently and will continue to perform ecological (habitat) and societal (recreation) functions. If due to "acts of God" (force majeure) the wetlands are unable to perform the functions and services expected the DNR as the long term land steward of the project may seek financial assistance from the ILF maintenance funds to assist in rectifying the situation.

10. Monitoring requirements.

This is a preservation project with no active restoration of wetlands therefore monitoring will be limited to a WVDNR Area Manager maintaining the site to assure no unauthorized activities occurs on the new Wildlife Management Area. Given that the site will be turned over to the long term land steward (DNR) immediately upon purchase the DNR will submit a brief statement by Jan 1, to the ILF program coordinator that the preserved wetlands are functioning at existing levels. If DNR performs, with the assistance of ILF maintenance monies, conducts invasive species control the monitoring report will document the success of those efforts. TNC/CVI with the assistance of WVDNR will submit an annual report to the ILF coordinator and the IRT documenting that no unauthorized activities have occurred on the wetlands and associated buffers. Such activities may include but are not limited to; illegal fill, illegal dumping, construction activities

11. Long-term management plan.

This is a preservation project with no active restoration of wetlands therefore monitoring will be limited to a WVDNR Area Manager maintaining the site to assure no unauthorized activities occur on the new Wildlife Management Area.

12. Adaptive management plan.

The DNR will have a Wildlife Manager assigned to the area so any event that may affect the area will be immediately detected and assessed. The ILF program has established an account for unforeseen events on ILF projects. If an unforeseen event occurs that significant negatively affects the function of the wetlands the DNR may request funding assistance from that account.

13. Financial assurances.

WVDNR has committed the funding necessary to purchase the property. The DNR will be "reimbursed" for 203 acres that the ILF has agreed to purchase to satisfy compensatory mitigation obligations in the region. The DNR is purchasing the entire Rehe property for \$800.00 / acre. At that rate the DNR will be reimbursed \$162,400 from the ILF program. The DNR has committed the necessary resources to manage the area once the site is under state ownership.

14. Other information.

Please contact Mr. Roger Anderson, Mr. Danny Bennett or Mr. Gary Foster at the WV DNR Elkins Operations Center 304-637-0245 if anyone has any questions concerning this project.