



Public Notice

**U S Army Corps
of Engineers**
Huntington District

Regulatory Division
Energy Resource Branch

In reply refer to Public Notice No.
LRH-2015-493

Issuance Date: 26 August 2015

Closing Date: 25 September 2015

Statewide (Stream and Wetland ILF)

Please address all comments and inquiries to:

U.S. Army Corps of Engineers, Huntington District

ATTN: CELRH-RD-E Public Notice No. (*reference above*)

502 Eighth Street

Huntington, West Virginia 25701-2070

Phone: (304) 399-5610

TO WHOM IT MAY CONCERN: A prospectus has been submitted pursuant to 33 CFR 332 proposing the establishment of an In Lieu Fee Program (ILFP) to provide mitigation for impacts to waters of the United States (U.S.) under Section 404 of the Clean Water Act (Section 404) and/or Section 10 of the Rivers and Harbors Act of 1899 (Section 10) with primary service areas in forty three (43) eight-digit hydrologic unit code (HUC) watersheds in the State of Ohio, within the boundaries of the U.S. Army Corps of Engineers (Corps) Buffalo, Huntington, and Pittsburgh Districts. The purpose of this public notice is to solicit comments from the public regarding the establishment of the proposed ILFP.

This is not an application for work in federally regulated waters; however, authorization under Sections 404 and Section 10 may be required for implementation of particular mitigation sites later proposed under the ILFP, if approved. Such sites would be advertised under separate public notices. No decision has been made as to whether this ILFP will be approved.

IN-LIEU FEE PROGRAM DEFINITION: An ILFP is 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 for DA permits. In addition, an ILFP may be used to satisfy compensatory mitigation requirements for isolated or non-jurisdictional waters¹. Similar to a mitigation bank, an ILFP sells compensatory mitigation credits to permittees whose obligation to provide compensatory mitigation is then transferred to the ILFP sponsor.

ESTABLISHMENT/OPERATION OF THE ILFP: DA permits authorizing the discharge of dredged or fill material into waters of the U.S. often require compensatory mitigation to offset aquatic (stream and/or wetland) losses by restoring, enhancing, or in exceptional circumstances, preserving streams or wetlands. Authorized ILFPs provide the Corps and the regulated public with an additional option of compensatory mitigation for offsetting the loss of aquatic resource. The establishment and implementation of an ILFP must be in accordance with an ILFP instrument approved by the Interagency Review Team (IRT). The Ohio IRT is presently

¹ Isolated or non-jurisdictional waters are not subject to regulation under the Corps' regulatory authority pursuant to Section 404 of the Clean Water Act. If approved by the State of Ohio, the proposed ILFP may also be used as compensatory mitigation for activities authorized under Ohio Revised Code (ORC Chapter 6111) which authorizes the Ohio Environmental Protection Agency to regulate all waters of the State.

comprised of the Corps (Buffalo, Huntington, and Pittsburgh Districts), the U.S. Environmental Protection Agency, the U.S. Fish and Wildlife Service, the U. S. Department of Agriculture-Natural Resources Conservation Service, the Ohio Department of Natural Resources and the Ohio Environmental Protection Agency. The Huntington District Regulatory Division is the lead district for the State of Ohio and serves as the chair of the Ohio IRT to address programmatic initiatives and processing of all statewide or multiple District prospectuses.

If the prospectus is deemed sufficient, the ILFP will be established through the development of an ILFP instrument to be signed by the sponsor, the Corps, and other IRT members. The process will follow 33 CFR 332, Compensatory Mitigation for Losses of Aquatic Resources (“Mitigation Rule”). The Mitigation Rule was published in the Federal Register on April 10, 2008. The ILFP would provide another option for compensatory mitigation to offset unavoidable impacts to waters of the U.S. It may also provide an alternate type of mitigation for Civil Works projects requiring compensation for impacts to aquatic resources as well as providing a resource for use in resolving Section 404 enforcement cases.

APPLICANT: Conservation Foundation of America
P.O. Box 23
Canal Winchester, Ohio 43110

PURPOSE: The Conservation Foundation of America (CFA) has submitted a prospectus to the Huntington District to initiate the development of a stream and wetland ILFP to meet compensatory mitigation requirements for future permits issued under Section 404 and Section 10. The purpose of the prospectus is to establish guidelines, responsibilities, and standards for the establishment, use, operation, and maintenance of the program in a way that complies with the regulations governing compensatory mitigation for activities authorized by Department of Army (DA) permits granted by the Corps.

DESCRIPTION OF PROPOSED ACTIVITY: Information required for a complete ILFP prospectus is outlined in 33 CFR 332.8(d)(2). A complete copy of the prospectus is posted on the Buffalo, Huntington, and Pittsburgh Districts’ websites:

<http://www.lrb.usace.army.mil/Missions/Regulatory/ActionsandNotices/PublicNotices.aspx>
<http://www.lrp.usace.army.mil/Missions/Regulatory/PublicNotices.aspx>
<http://www.lrh.usace.army.mil/Missions/Regulatory/PublicNotices.aspx>

The prospectus is also available for review in each of the offices listed on Attachment A. Optimal times to review the prospectus would be between the hours of 9:00 AM and 3:00 PM, Monday through Friday. Please call the respective point of contact (POC) listed on Attachment A to arrange a time for any office reviews.

PROPOSED SERVICE AREA: The ILFP is proposed within forty three (43) eight-digit HUC watershed primary service areas within the geographic boundaries of the Buffalo, Pittsburgh, and Huntington Districts in Ohio as follows:

Ottawa-Stony	HUC 04100001	Upper Ohio-Shade	HUC 05030202
Raisin	HUC 04100002	Hocking	HUC 05030204
St. Joeseeph	HUC 04100003	Tuscarawas	HUC 05040001
St. Mary's	HUC 04100004	Mohican	HUC 05040002
Upper Maumee	HUC 04100005	Walhonding	HUC 05040003
Tiffin	HUC 04100006	Muskingum	HUC 05040004
Auglaize	HUC 04100007	Wills	HUC 05040005
Blanchard	HUC 04100008	Licking	HUC 05040006
Lower Maumee	HUC 04100009	Upper Scioto River	HUC 05060001
Cedar-Portage	HUC 04100010	Lower Scioto	HUC 05040002
Sandusky	HUC 04100011	Paint	HUC 05040003
Huron and Vermilion	HUC 04100012	Upper Great Miami	HUC 05080001
Black and Rocky	HUC 04110001	Lower Great Miami	HUC 05080002
Cuyahoga	HUC 04110002	Whitewater	HUC 05080003
Ashtabula-Chagrin	HUC 04110003	Raccoon	HUC 05090101
Grand	HUC 04110004	Little Scioto-Tygarts	HUC 05090103
Chautauqua-Conneaut	HUC 04120101	Ohio Brush-Whiteoak	HUC 05090201
Upper Ohio	HUC 05030101	Little Miami	HUC 05090202
Shenango	HUC 05003102	Middle Ohio-Laughery	HUC 05090203
Mahoning	HUC 05030103	Upper Wabash	HUC 05120101
Upper-Ohio Wheeling	HUC 05030106	Mississinewa	HUC 05120103
Little Muskingum	HUC 05030201		

Each primary service area would have a secondary service area that includes the remainder of the six-digit HUC watershed in which each respective primary service area occurs.

PUBLIC INVOLVEMENT: The Corps is soliciting comments from the public; Federal, state, and local agencies and officials; Federally-recognized Tribes; and other interested parties in order to consider and evaluate the proposed ILFP. Any comments received will be considered by the Corps in determining whether to allow the sponsor to proceed to develop a draft ILFP instrument. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

PUBLIC HEARING: Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this prospectus. The requests for public hearing shall state, with particularity, the reasons for holding a public hearing. The District Engineer will determine if the issues raised are substantial and whether a hearing will be conducted.

COMMENTS OR REQUEST FOR ADDITIONAL INFORMATION: Comments submitted in response to this notice will be fully considered during the review for this prospectus. All written comments will be made part of the administrative record which is available to the public under the Freedom of Information Act. Copies of comments received will be forwarded to the sponsor and to the members of the IRT.

This notice is promulgated in accordance with Title 33, Code of Federal Regulations, parts 320-332. Any interested party desiring to comment on the proposed prospectus described herein may do so by submitting their comments in writing so they are received no later than the closing date of this notice.

All responses to this notice should reference the public notice number (LRH-2015-493) and be directed to the Huntington District Regulatory Division at the above address. Please contact Mr. Cory Wilson with any questions pertaining to this public notice or the prospectus at the above address, by telephone at (330) 365-4271, or by email at cory.l.wilson@usace.army.mil.

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Attachment A:

In addition to viewing the complete copy of the prospectus on the Buffalo, Huntington, and Pittsburgh Districts' websites, individuals may also make arrangements to review the prospectus at the following office locations:

Cincinnati Field Office, 10557 McKelvery Road, Cincinnati, Ohio 45240
POC: Mr. Cory Wilson, 330-365-4271, cory.l.wilson@usace.army.mil

Dillon Lake Field Office, 4969 Dillon Dam Road, Zanesville, Ohio 43701
POC: Mr. Cory Wilson, 330-365-4271, cory.l.wilson@usace.army.mil

Dover Field Office, 5336 SR 800, NE, Dover, Ohio 44622
POC: Mr. Cory Wilson, 330-365-4271, cory.l.wilson@usace.army.mil

Oak Harbor Field Office, 240 Lake Street, Oak Harbor, Ohio 43449
POC: Mr. Mark Gronceski, 440-437-5847, mark.e.gronceski@usace.army.mil

Orwell Field Office, 33 Grand Valley Avenue, Orwell, Ohio 44076
POC: Mr. Mark Gronceski, 440-437-5847, mark.e.gronceski@usace.army.mil

Pittsburgh District Office, 1000 Liberty Avenue, Pittsburgh, PA 15222
POC: Mr. Donald Bole, 412-395-7576, donald.r.bole@usace.army.mil

Stow Field Office, 1100 Graham Road Circle, Stow, Ohio 44224
POC: Mr. Mark Gronceski, 440-437-5847, mark.e.gronceski@usace.army.mil