



WI Wetland Conservation Trust, In Lieu Fee Program

Prepared for:

Critical Methods Training 2016



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Agenda



- Program Overview
- Mitigation Process
- Types of Credits / Ratios
- Service Areas
- Credit Fees
- Current Credit Activity
- Grant Program
- Prioritization and Selection
- Project Goals & Objectives
- Land Protections / Public Access
- Project Credit Generation & Performance Standards



What is In-Lieu Fee?



33 CFR 332.2 –

Means a program involving the restoration, establishment, enhancement and/or preservation of aquatic resources through funds paid to a government or non-profit natural resources management entity to satisfy compensatory mitigation requirements for permits.



Similar to a mitigation bank, an in-lieu fee program sells compensatory mitigation credits to permittees whose obligation to provide compensatory mitigation is then transferred to the in-lieu fee program sponsor.

WI Basis



- March 2012 Act 118 signed –
- July 1, 2012 Act 118 took effect
 - DNR may establish an “in lieu fee subprogram”, in consultation w/Corps
 - State Statute 281.36(3n)(d) – The department shall require mitigation...for wetland individual permits...
- In lieu fee program applicable to –
 - State Individual Wetland Permits & Federal Permits under section 404 CWA and/or Section 10 of River and Harbors Act 1899.
- Program Creation –
 - No rule making required, Governed by a legal agreement (Instrument) subject to public notice & approved by the Corps / IRT (EPA)



Program Objectives



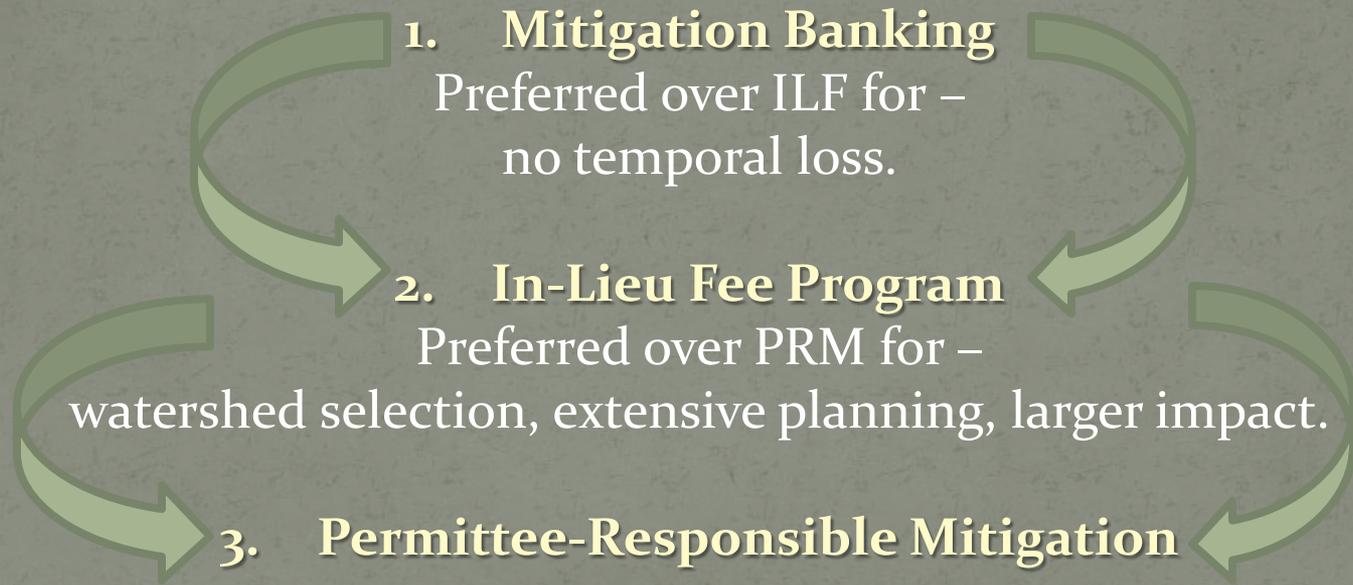
- WI Wetland Conservation Trust approved 11/19/2014
- Provide an additional method of mitigation
- Focus on the greatest watershed needs
- Complete projects on the ground selected through a watershed approach



Mitigation Process



- WWCT **does not change** the requirement to: **First Avoid, then Minimize and lastly mitigate.**
- Follow general hierarchy in the 2008 Federal Rule



- New Process Forms:
 - [Mitigation Summary Sheet & IP Wetland Mitigation Process](#)

Types of Credits / Ratios



- Advanced Credit: available for sale prior to being fulfilled in accordance with an approved mitigation project.
- Released Credit: generated from a Corps approved project, as performance standards are met, released per a credit release schedule.

Typical Compensation Ratio is 1.45 : 1

- 1 acre impact = 1.45 advanced credits
 - State minimum 1.2 + 0.25 resource temporal loss





Purchasing a Credit

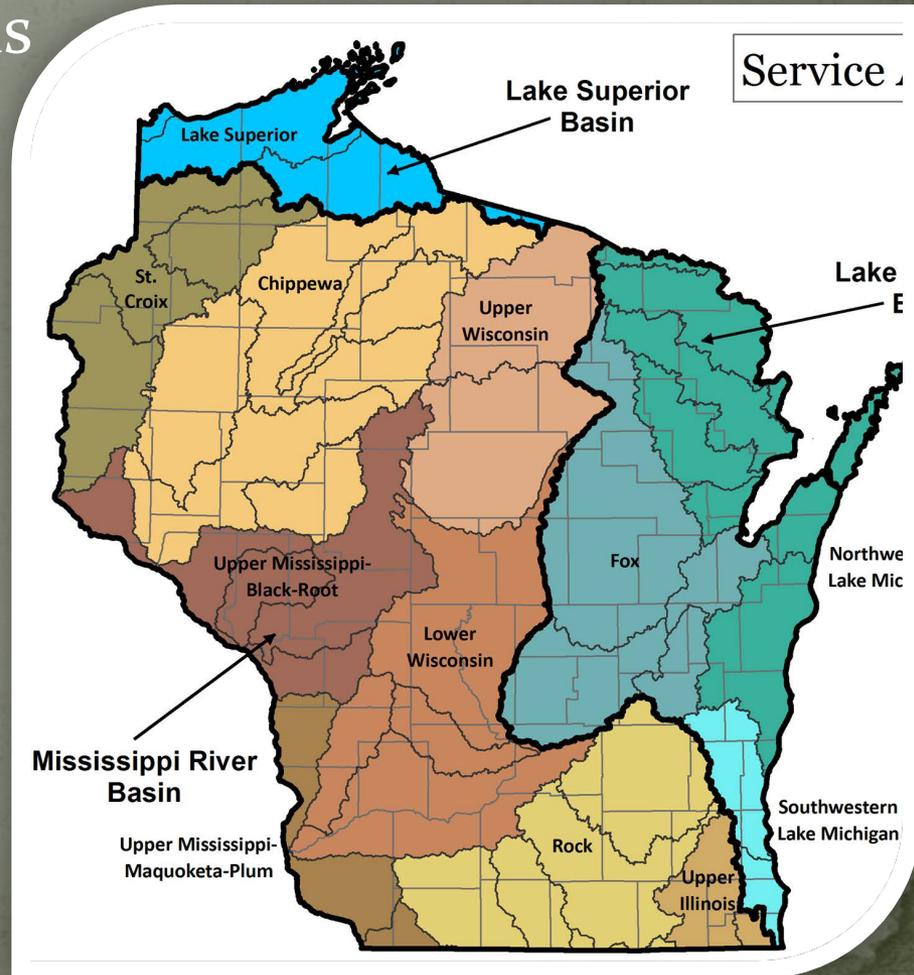
- [Wetland IP Mitigation Process](#)
- Mitigation Coordinator Approval
- Customer establishment
- Generate Invoice
 - due in 30 days
- Submit payment
 - Paper Check or
 - E-Pay (E-Check, Credit Card, ACH-Credit)
- Credit Affidavit
- Mitigation Coordinator's findings of fact for permit
- Overall process generally takes between 5-35 days



Service Areas



- Statewide program
- Divided into 12 service areas
 - Based on modified HUC-6
 - Program Consistency
- Spatial Levels
 - HUC-4: Cannot cross
 - HUC-6: Track sales
 - HUC-8: Community goals
- 3 Years to Initiate Project
 - After selling first credit



Credit Fee



- Annual Report completed 12/4/2015
 - Previous fiscal 7/1/14 to 6/30/15
- Credit Fee raised by \$1,000/credit
 - USDA AG Land 2014
 - Superior HUC-4: increase of ~21%
 - Lake Mich HUC-4: increase of ~12%
 - Mississippi HUC-4: increase of ~14%
- Superior HUC-4: \$59,000 per Credit
- Lake Mich HUC-4: \$62,000 per Credit
- Mississippi HUC-4: \$61,000 per Credit



Current Credit Activity (rev. 2/29/16)

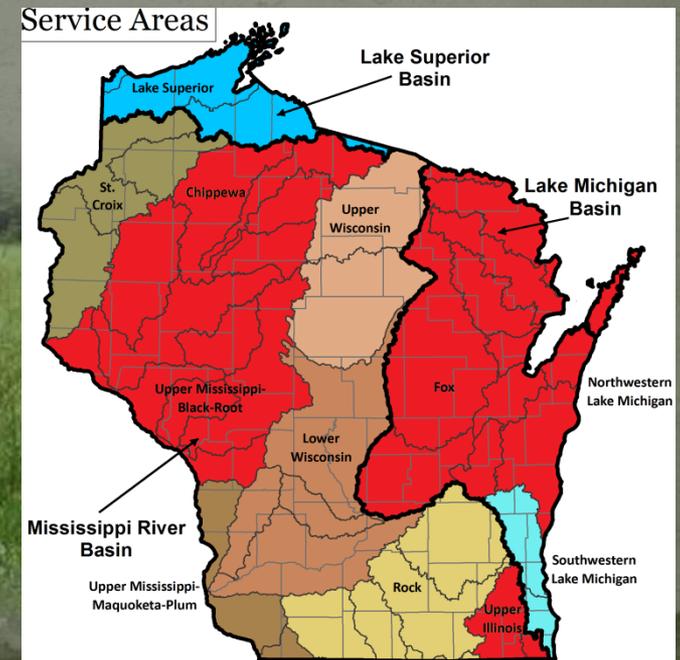


Service Area	Authorized Advanced Credits	# Adv Credits Sold/Invoiced	Available Advanced Credits	% of available credits sold
UMBR	50	15.07	34.93	30%
NW Lake Mich	100	33.37	66.63	33%
SW Lake Mich	60	6.61	53.39	11%
Fox	55	33.05	21.95	60%
Upper IL	30	16.93	13.07	56%
Lower WI	40	6.41	33.59	16%
UMMP	30	0	30.00	0%
Rock	90	8.95	81.05	10%
St. Croix	30	3.64	26.36	12%
Upper WI	100	0	100.00	0%
Chippewa	50	11.29	38.71	23%
Lake Superior	75	6.75	68.25	9%
TOTALS	710	142.07	567.93	

Grant Program



- Program Guidance public comment process
 - Completed in December 2015 / 13 comments from 5 parties
- Who can apply?
 - Public Agencies, Nonprofit Conservation Orgs, WI Tribes, Entities registered with DFI, WI Landowners
- Eligible Service Areas:
 - Chippewa
 - Upper Miss. Black Root
 - Fox
 - Upper IL
 - NW Lake Michigan
- Open for 60 days
- Technical Review Team



Prioritization Strategy for Site Selection and Planning



- **First**, meet the core requirements
 - Successful & sustainable net gain &/or preservation of function &/or area.
 - Fulfill tenets of existing Advanced Watershed Plans (AWP) or prioritization strategy, preference for AWP.
 - Cost, feasibility, size, proximity to protected areas, corridor connectivity, human use value, efficient maintenance, NRB Boundaries.
- **Second**, capacity to provide wetland functions & achieve goals and objectives
- **Third**, located in or adjacent to PRW or other priority conservation areas
- **Fourth**, high opportunity HUC-8's
 - high % historic loss, high quantity PRW



Project Goals and Objectives



- Overall Service Area goals & objectives
 - Provide comp mitigation based on credit sales
 - Perform comp mitigation in high priority watersheds (high historic loss, high PRW)
 - Replace historic wetland types sustaining high losses, supported by permitted losses
 - Implement priority actions for SGCN & their associated wetland habitat
 - Address 303d listed waters capable of remediation through wetland projects
 - Provide functional buffers around projects to sustain wetland function
 - Preserve rare & high quality wetlands, critical habitat for T/E species, etc
- Specific HUC-8 Watershed goals & objectives
 - Identify the restoration & enhancement of specific wetland cover types
 - Identify the preservation of specific rare wetland types according to the WWAP



Land Protections & Public Access



- All projects must have perpetual land protection
 - Fee Simple Title, Conservation Easements, other
 - Easement Template Available in Instrument
- Nature Based Outdoor Activities:
 - All WWCT funded projects shall be open to the public
 - Hunting, Fishing, Trapping, X-County Skiing, Hiking
 - Can restrict for public safety or to protect T/E species



Use Restrictions vs. Management



- Conservation Easement Land Use Restrictions...
except as consistent with Site Mitigation Plan:
 - No dredging, filling, excavating, mining, drilling, removal of topsoil/sand/gravel/rock/minerals or other materials
 - Hydrology will not be altered in anyway
 - All agriculture uses are prohibited (plowing, tilling, haying, cultivating, planting, etc.).
 - No Stocking animals or grazing allowed.
 - No operation of motorized vehicles or equipment
- **Third Party Rights to Inspect and Enforce Covenants granted to Army Corps.**



Long Term Management



- Managing and monitoring the property in perpetuity to preserve its habitat and conservation values in accordance with the approved Mitigation Plan.
- Separate Plan Required that details:
 - Public Use Activities – permitted, restricted, prohibited
 - Management Goals and Objectives
 - Priority Actions for effective use of funds
- Upfront Funding Allocated to each project
- Identify Long Term Steward
 - DNR, Land Trust, other entity



Project Credit Generation



- Based on 2013 Wetland Mitigation Guidelines
 - <http://dnr.wi.gov/topic/Wetlands/mitigation/guidelines.html>
- Restoration: Occurs in former historic wetlands
 - Involves re-establishing hydrology, topography & plant community to increase wetland acreage.
- Enhancement: Occurs in an existing wetland
 - Increases wetland functions, but does not increase wetland acreage.
- Preservation: Occurs in high quality, high functioning wetlands.
 - Must be under demonstrable threat of destruction or adverse modifications.
- Vegetated Buffers to protect sustainability of site
 - Not improved ratio 0.1 : 1, improved with native species 0.25 : 1, Cannot comprise more than 25% of total site credit.
- **No Credit Given for Open Water Communities**

Mitigation Method	Proposed Ratio (acres : credits)	Multiplier (acres X multiplier = credits)
Restoration	1 : 1	1.000
Enhancement	1.33 : 1	0.750
Preservation	8 : 1	0.125
Buffer	4 : 1	0.250

Performance Standards



- Interim and Final standards
 - Tied to credit releases, build up to final
- Functional Standards:
 - WI Rapid Assessment Methodology (RAM)
- Physical Standards:
- Delineated wetland acreage
- Hydrology Example:
 - Water table within 12 inches of surface for a minimum of 28 consecutive days, or two periods of 14 consecutive days during growing season.
- Vegetative Examples:
 - % absolute cover, species richness of natives, % invasives, % woody stems per acre, % species from specified families, floristic quality index, native mean coefficient of conservation value .



Additional Resources



- WI Wetland Conservation Trust website:
 - <http://dnr.wi.gov/topic/Wetlands/mitigation/WWCT.html>

- WWCT Helpful Resources:

- Full Signed Instrument
- Service Area Map
- Credit Availability
- Credit Fee Schedule
- Annual Report

- WWCT Grant

- <http://dnr.wi.gov/Aid/Grants.html>
 - Located under Conservation/Wildlife Tab

Wisconsin Wetland Conservation Trust

We are excited to announce the approval of our WI Wetland Conservation Trust (WWCT), a wetland in-lieu fee mitigation program sponsored and administered by the DNR. The Final Instrument has been signed by the U.S. Army Corps of Engineers and Interagency Review Team thus authorizing Wisconsin's first wetland in-lieu fee compensatory mitigation program. Credits are now available for sale to permittees that have first avoided, then minimized wetland impacts and are currently seeking to satisfy a wetland compensatory mitigation requirement.

What is an in-lieu fee program?
An in-lieu fee program involves the restoration, establishment, enhancement and/or preservation of aquatic resources through funds paid to a government or non-profit natural resources management entity to satisfy compensatory mitigation requirements for permits. An in-lieu fee program sells credits to permittees whose legal obligation to provide compensatory mitigation is then transferred to the sponsor of the in-lieu fee program upon receipt of an associated credit fee.

In-lieu fee programs are regulated by the U.S. Army Corps of Engineers under the [2008 Federal Rule 332 CFR part 3321 \(see also\)](#) as well as a legal agreement termed the Final Instrument that describes how the program will function.

Where is the program offered?
The geographic area authorized to provide WWCT based mitigation includes the entire state of Wisconsin and is further broken into 12 separate Service Areas based on watersheds consistent with those utilized for mitigation banking and permittee responsible mitigation.

Service areas

Service Areas

- **Overview & FAQ**
- **Guidelines**

Types of mitigation

- **Wetland mitigation banking**
- **WWCTI (in-lieu fee program)**
- **Permittee responsible mitigation**

THANK YOU!



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<http://dnr.wi.gov/topic/wetlands/mitigation/>