

US Army Corps
of Engineers
Memphis District

Public Notice

FILE NUMBER: MVM 2021-257 (RDM)

NOTICE DATE:
November 30, 2023

Attn: Postmaster, **EXPIRATION DATE:**
Please Post Until **December 29, 2023**

Public Notice

U.S. Army Corps of Engineers

AUTHORITY: Pursuant to 33 CFR 332.8(d)(4) (Mitigation banks and in-lieu fee programs, public review and comment), this notice announces a prospectus submitted for the proposed development of an In-Lieu Fee Program Sponsored by West Tennessee River Basin Authority.

BANK SPONSOR: West Tennessee River Basin Authority
Tennessee Department of Environment and Conservation
3628 Eastend Drive
Humboldt, Tennessee 38343

PURPOSE: The purpose of this notice is to inform the public of the proposed In-Lieu Fee (ILF) program sponsored by the West Tennessee River Basin Authority (WTRBA) that would generate credits that could be used to meet compensatory mitigation requirements for permits issued under Section 404 of the Clean Water Act for the deposition of dredged or fill material into waters of the United States (WOTUS) or under Section 10 of the Rivers and Harbors Act of 1899 for work within navigable waters of the United States. If approved, this ILF could also be used to satisfy permitting requirements of the Tennessee Department of Environment and Conservation to offset impacts to Waters of the State (WOTS) under the Tennessee Water Quality Control Act. The following is a summary of the prospectus for this program; the link to the complete prospectus is available below. Please contact the Memphis District (see contact information on page 3) for further information.

LOCATION: The WTRBA ILF proposes to operate within west Tennessee within the Memphis District's area of responsibility, bounded by the Tennessee River divide to the East and the state boundaries to the North, South, and West. (Figure 1)

QUALIFICATIONS: As stated by the Sponsor: "The WTRBA, created under Title 64, Chapter 1, Part 11 of the Tennessee Code Annotated and administratively attached to TDEC. The purpose of this state entity includes improvement of the WOTS (Tenn. Code Ann. § 64-1-1101(b)(2)). These goals are met through improving aquatic resource conditions, while mimicking natural flow and functions, through the best engineering practices available. The WTRBA is tasked with maintenance, stabilization and preservation of the natural flow and function of the Hatchie, Loosahatchie, Obion, and Forked Deer watersheds. With a full-time staff of fifteen equipment operators, two administrative staff, and seven science and engineering staff, the WTRBA is ideally suited to identify, construct, and maintain stream and wetland projects. The WTRBA also has the authority to enter supplemental contracts for design, permitting, construction, monitoring, or maintenance for any or all portions of approved projects."

GOALS AND OBJECTIVES: The sponsor has stated that "The purpose of the proposed In-Lieu Fee Program, sponsored by the WTRBA, is to establish, restore, enhance, and preserve aquatic resources within the WTRBA's jurisdiction, specifically streams."

According to the applicant the objectives of the ILF Program are to:

1. Offset the permitted, unavoidable impacts to WOTUS and WOTS through stream and wetland restoration, enhancement, and preservation projects in west Tennessee.

2. Provide a watershed-level alternative to mitigation banks in areas where these options do not exist or are insufficient to meet demands in the region.
3. Restore stream, wetland, and floodplain functions to the region in a coordinated approach while generating revenue to sustain conservation efforts into the future.
4. Serve the WTRBA's mission to preserve the flow and function of west Tennessee rivers, streams, and bottomland hardwood habitats.
5. Provide a mechanism and source of revenue for a watershed-level approach to stream restoration projects implemented by the WTRBA to further the agency mission.

SERVICE AREA: The service areas proposed for this ILF program will include those drainages constrained on the eastern boundary by the Tennessee River divide, the western boundary by the Mississippi River, and by the Tennessee state line on the northern and southern edges. The proposed service areas include the following Level 3 Ecoregions.

Table 1. Proposed Service Areas for the WTRBA ILF Program.

Service area	HUC 8 Watersheds
Obion Basin	08010202 – Obion 08010203 – South Fork Obion
Forked Deer	08010204 – North Fork Forked Deer 08010205 – South Fork Forked Deer 08010206 – Forked Deer
Hatchie	08010100 – Lower Mississippi – Memphis 08010203 – Lower Hatchie 08010207 – Upper Hatchie 08010209 – Loosahatchie

COMPENSATION PLANNING FRAMEWORK: The Compensation Planning Framework details how sites will be assessed and how mitigation /engineering practices will be applied to any permitted mitigation activities to fulfill the ILF program credit obligations if the proposed program were to be approved. It includes the ten required sections outlined in the 2008 Mitigation Rule and is included in the full Prospectus that is available for review at the locations indicated below in the Prospectus section of this Public Notice.

PROSPECTUS: The complete prospectus for the proposed West Tennessee River Basin Authority In-Lieu Fee Program is available online at <https://www.mvm.usace.army.mil/About/Offices/Regulatory/Public-Notices/> or on the Regulatory In-Lieu Fee and Bank Information Tracking System (RIBITS) at https://ribits.ops.usace.army.mil/ords/f?p=107:378::::P378_PROGRAM_ID:2891

ENDANGERED SPECIES: This project is being coordinated with the United States Fish and Wildlife Service. Any comments they may have regarding endangered or threatened wildlife or plants, or their critical habitat, will be considered in our evaluation of the described work.

CULTURAL RESOURCES: In compliance with Section 106 of the National Historic Preservation Act of 1966 (NHPA), as amended, the Memphis District will identify and evaluate potential effects of the proposed action on historic properties through consultation with federal, state, and local agencies, federally recognized Indian Tribes, the public, and other interested parties.

FLOODPLAIN: In accordance with 44 CFR Part 60 (Floodplain Management and Use), participating communities are required to review all proposed development to determine if a floodplain development permit is required. Floodplain administrators should review the proposed public notice and apprise this office of any floodplain development permit requirements.

PUBLIC INTEREST REVIEW: The purpose of this public notice is to advise all interested parties of the proposed activities and to solicit comments and information necessary to evaluate the probable impact on the public interest. The decision whether to authorize this ILF program will be based on an evaluation of the probable impact including cumulative impacts of the activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits which reasonably may be expected to accrue from this proposed ILF program must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the project will be considered, including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership and in general, the needs and welfare of the people. The Corps of Engineers 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 activity.

Any comments received will be considered by the Corps of Engineers to determine whether to authorize this request. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. 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. Requests for a public hearing shall state, with particularity, the reason for holding a public hearing. The District Engineer will determine if the issues raised are substantial and whether a hearing is needed for making a decision. If a public hearing is held, it will be for the purpose of obtaining additional information that we could not otherwise obtain through a public notice process and not to inform the public about the specific details of the project in greater detail than what is found in this notice. This is not a Corps of Engineers project. We are not a proponent nor are we an opponent of the project. We are merely the permitting authority of Section 404 and Section 10 permits required by our office.

COMMENTS: To request additional information or provide comments on this notice, please contact Damon McDermott using the information below:

Damon McDermott
Corps of Engineers – Memphis District
167 N. Main Street, Room B-202
Memphis, Tennessee 38103-1894
Email: robert.d.mcdermott@usace.army.mil
Phone: (901) 544-0732

Comments may be sent via mail or email. The Corps of Engineers may provide copies of all comments, (including name & address of those providing comments) to the applicant for consideration and response prior to a decision. Comments must be received by the expiration date listed on page one of this notice.

For Final Individual Permits actions in the Memphis District, go to the following link: <http://permits.ops.usace.army.mil/orm-public>. Using the Filter by district drop down box, select MVM-Memphis District, then select the year and month (information will populate in the table below). All pending individual permits can be located by selecting the "Pending IP" tab above. All of the environmental documents and statements of findings supporting issuance or denial of the permit decisions are available upon written request and where applicable, upon the payment of administrative fees. They are also available at the Memphis District, Regulatory Division office for examination.

for: Gregg W. Williams
Chief
Regulatory Division

Attachments

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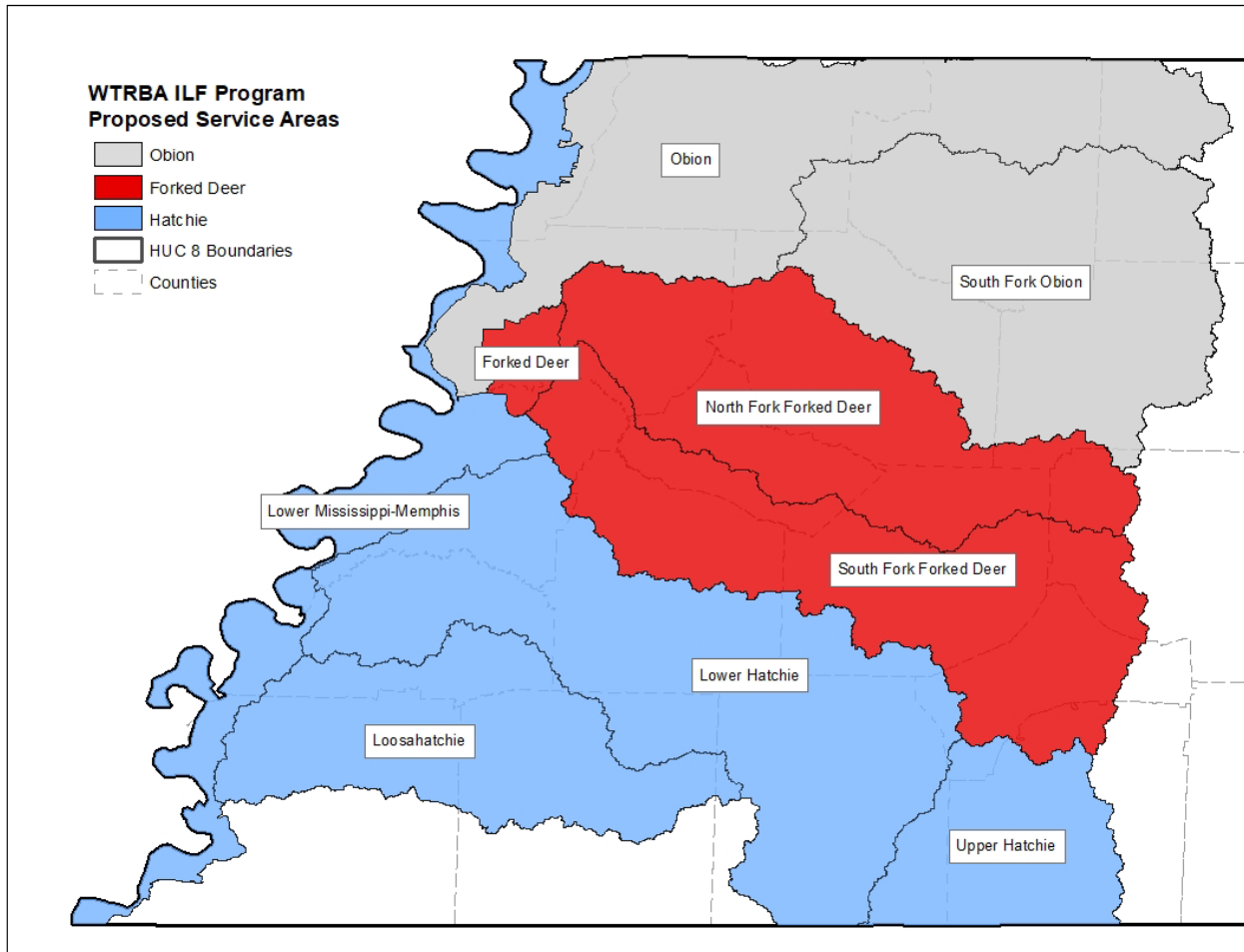


Figure 1. Proposed Service Areas and HUC 8 watersheds within each service area for the WTRBA ILF Program.